

Irrigation and M&I
Contract No. 11r-1460D

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
SOUTHERN SAN JOAQUIN MUNICIPAL UTILITY DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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8 PROVIDING FOR PROJECT WATER SERVICE
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10 FACILITIES REPAYMENT

11 THIS CONTRACT, made this 24th day of November, 2010, is entered
12 into pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary
13 thereto, including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70
15 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100
16 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title
17 X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin
18 River Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter
19 referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
20 hereinafter referred to as the United States and SOUTHERN SAN JOAQUIN MUNICIPAL
21 UTILITY DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of
22 California, duly organized, existing, and acting pursuant to the laws thereof, with its principal
23 place of business in California;

24 WITNESSETH, That

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EXPLANATORY RECITALS

[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3rd] WHEREAS, the United States and the Contractor entered into Contract Number I1r-1460, as amended, which established terms for the delivery to the Contractor of Project Water from the Friant Division from October 18, 1945 through February 28, 1991; and

[4th] WHEREAS, the Contractor and the United States have entered into a renewal contract and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into an interim renewal contract(s), identified as Contract Number (s) I1r-1460R and I1r-1460-IR1, which provided for the continued water service to Contractor from March 1, 1991 through February 28, 2001, and subsequently entered into a long-term renewal contract identified as Contract Number I1r-1460-LTR1, which provided for

45 continued water service to Contractor through February 28, 2026, which was amended January
46 18, 2007, and is herein referred to as the “Existing Contract”; and

47 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
48 United States has acquired water rights and other rights to the flows of the San Joaquin River,
49 including without limitation the permits issued as the result of Decision 935 by the California
50 State Water Resource Control Board and the contracts described in subdivision (n) of Article 3
51 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers
52 Project Water stored or flowing through Millerton Lake in accordance with State and Federal law
53 for the benefit of Project Contractors in the Friant Division and for other specified Project
54 purposes; and

55 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is
56 Project Water developed through the exercise of the rights described in the fifth (5th) Explanatory
57 Recital of this Contract; and

58 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council,
59 et al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant
60 Division entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”),
61 which settlement prescribes a Restoration Goal and a Water Management Goal and which
62 Settlement was subsequently confirmed and implemented through the SJRRSA; and

63 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the
64 Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August
65 4, 1939, no later than December 31, 2010, and further directs that such contract shall require the

66 accelerated repayment of the Contractor's allocated share of construction costs, either as a lump
67 sum payment by January 31, 2011 or in annual installments by January 31, 2014, which funds
68 will in turn be made available for implementation of the Settlement and SJRRSA, and which
69 costs otherwise would have been payable through annual water rates, with full repayment by
70 2030; and

71 [9th] WHEREAS, such repayment of costs will assist the United States with
72 implementation of actions required under the Settlement and the SJRRSA and provide the
73 Contractor the benefits provided in Section 10010 of the SJRRSA; and

74 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act)
75 directs the Secretary to provide that the other party to any contract entered into pursuant to
76 subsection (d) of Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to
77 subsection (e) of Section 9 of the Act of August 4, 1939 (water service contract) shall "have the
78 first right (to which the rights of the holders of any other type of irrigation water contract shall be
79 subordinate) to a stated share or quantity of the project's available water supply for beneficial use
80 on the irrigable lands within the boundaries of, or owned by, the party and a permanent right to
81 such share or quantity upon completion of payment of the amount assigned for ultimate return"
82 by the contractor subject to fulfillment of all obligations under the contract; and

83 [11th] WHEREAS, among other things, this Contract includes provisions granting the
84 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

85 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
86 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for

87 reasonable and beneficial use and/or has demonstrated projected future demand for water use
88 such that the Contractor has the capability and expects to utilize fully for reasonable and
89 beneficial use the quantity of Project Water to be made available to it pursuant to this Contract;
90 and

91 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon
92 by urban and agricultural areas within California for more than fifty (50) years and is considered
93 by the Contractor as an essential portion of its water supply; and

94 [14th] WHEREAS, the economies of regions within the Central Valley Project,
95 including the Contractor's, depend upon the continued availability of water, including water
96 service from the Central Valley Project; and

97 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and
98 partnerships to pursue measures to improve water supply, water quality, and reliability of the
99 Project for all Project purposes; and

100 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
101 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
102 repayment of the Central Valley Project as required by law; to guard reasonably against Project
103 Water shortages; to achieve a reasonable balance among competing demands for use of Project
104 Water; and to comply with all applicable environmental statutes, all consistent with the legal
105 obligations of the United States relative to the Central Valley Project; and

106 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a
107 need exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to

108 meet flood control criteria (currently referred to as “uncontrolled season”), taking into
109 consideration, among other things, anticipated upstream reservoir operations and the most
110 probable forecast of snowmelt and runoff projections for the upper San Joaquin River, Friant
111 Division Project Contractors utilize a portion of their undependable Class 2 Water in their
112 service areas to, among other things, assist in the management and alleviation of groundwater
113 overdraft in the Friant Division service area, provide opportunities for restoration of the San
114 Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage
115 optimal water management, and maximize the reasonable and beneficial use of the water; and

116 [18th] WHEREAS, the parties desire and intend that this Contract not provide a
117 disincentive to the Friant Division Project Contractors continuing to carry out the beneficial
118 activities set out in the Explanatory Recital immediately above; and

119 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all
120 of its obligations under the Existing Contract.

121 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
122 contained, it is hereby mutually agreed by the parties hereto as follows:

123 DEFINITIONS

124 1. When used herein, unless otherwise distinctly expressed or manifestly
125 incompatible with the intent of the parties as expressed in this Contract, the term:

126 (a) “Additional Capital Obligation” shall mean any additional construction
127 costs or other capitalized costs incurred after the effective date of this Contract or not reflected in
128 the Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any

129 amounts payable by Contractor as determined through the final adjustment described and
130 required by Section 10010(b) of the SJRRSA;

131 (b) "Calendar Year" shall mean the period January 1 through December 31,
132 both dates inclusive;

133 (c) "Charges" shall mean the payments required by Federal Reclamation law
134 in addition to the Rates and Tiered Pricing Components specified in this Contract as determined
135 annually by the Contracting Officer pursuant to this Contract and consistent with the SJRRSA;

136 (d) "Class 1 Water" shall mean that supply of water stored in or flowing
137 through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3,
138 12, and 13 of this Contract, will be available for delivery from Millerton Lake and the
139 Friant-Kern and Madera Canals as a dependable water supply during each Year;

140 (e) "Class 2 Water" shall mean that supply of water which can be made
141 available subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this
142 Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to
143 the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence,
144 such water will be undependable in character and will be furnished only if, as, and when it can be
145 made available as determined by the Contracting Officer;

146 (f) "Condition of Shortage" shall mean a condition respecting the Project
147 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the
148 Contract Total;

149 (g) “Contracting Officer” shall mean the Secretary of the Interior’s duly
150 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law
151 or regulation;

152 (h) “Contract Total” shall mean the maximum amount of Class 1 Water plus
153 the maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract
154 and is the stated share or quantity of the Project’s available water supply to which the Contractor
155 will have a permanent right in accordance with the 1956 Act and the terms of this Contract, upon
156 the Contractor’s complete payment of the Repayment Obligation, notwithstanding any
157 Additional Capital Obligation that may later be established, which right shall not be disturbed so
158 long as the Contractor fulfills all of its obligations under this Contract;

159 (i) “Contractor’s Service Area” shall mean the area to which the Contractor is
160 permitted to provide Project Water under this Contract as described in Exhibit “A” attached
161 hereto, which may be modified from time to time in accordance with Article 36 of this Contract
162 without amendment of this Contract;

163 (j) “CVPIA” shall mean the Central Valley Project Improvement Act, Title
164 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

165 (k) “Eligible Lands” shall mean all lands to which Irrigation Water may be
166 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
167 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

168 (l) “Excess Lands” shall mean all lands in excess of the limitations contained
169 in Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
170 Reclamation law;

171 (m) “Existing Capital Obligation” shall mean the remaining amount of
172 construction costs of the Contractor identified in the Central Valley Project Irrigation Water
173 Rates and/or Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as
174 adjusted to reflect payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A)
175 of the SJRRSA. The Contracting Officer has computed the Existing Capital Obligation in a
176 manner consistent with the SJRRSA and such amount is set forth in Exhibits “C-1” and “C-2”,
177 incorporated herein by reference;

178 (n) “Financing Costs”, for purposes of computing the reduction of certain
179 charges as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference
180 between the net present value of the Existing Capital Obligation discounted using the full
181 Treasury rate and the Existing Capital Obligation discounted using one-half the Treasury rate, as
182 set forth in Section 10010(d)(3) of the SJRRRA;

183 (o) “Full Cost Rate” shall mean that water rate described in Sections 205(a)(3)
184 or 202(3) of the RRA, whichever is applicable;

185 (p) “Ineligible Lands” shall mean all lands to which Irrigation Water may not
186 be delivered in accordance with Section 204 of the RRA;

187 (q) “Irrigation Full Cost Water Rate” shall have the same meaning as “full
188 cost” as that term is used in Paragraph (3) of Section 202 of the RRA;

189 (r) “Irrigation Water” shall mean water made available from the Project that
190 is used primarily in the production of agricultural crops or livestock, including domestic use
191 incidental thereto, and watering of livestock;

192 (s) “Landholder” shall mean a party that directly or indirectly owns or leases
193 nonexempt land, as provided in 43 CFR 426.2;

194 (t) “Long Term Historic Average” shall mean the average of the final forecast
195 of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced
196 in the third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

197 (u) “Municipal and Industrial (M&I) Water” shall mean water made available
198 from the Project other than Irrigation Water made available to the Contractor. M&I Water shall
199 include water used for human use and purposes such as the watering of landscaping or pasture
200 for animals (e.g., horses) which are kept for personal enjoyment or water delivered to land
201 holdings operated in units of less than five (5) acres unless the Contractor establishes to the
202 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a
203 use described in subdivision (r) of this Article of this Contract;

204 (v) “M&I Full Cost Water Rate” shall mean the annual rate, which, as
205 determined by the Contracting Officer, shall amortize the expenditures for construction allocable
206 to Project M&I facilities in service, including, O&M deficits funded, less payments, over such
207 periods as may be required under Federal Reclamation law with interest accruing from the dates
208 such costs were first incurred plus the applicable rate for the O&M of such Project facilities.

209 Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest
210 Rate methodology contained in Section 202(3) (B) and (C) of the RRA;

211 (w) "Operation and Maintenance" or "O&M" shall mean normal and
212 reasonable care, control, operation, repair, replacement (other than Capital replacement), and
213 maintenance of Project facilities;

214 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or
215 its successor, a Non-Federal entity, which has the obligation to operate and maintain all or a
216 portion of the Friant Division Facilities pursuant to an agreement with the United States and
217 which may have funding obligations with respect thereto;

218 (y) Omitted;

219 (z) "Project" shall mean the Central Valley Project owned by the United
220 States and managed by the Department of the Interior, Bureau of Reclamation;

221 (aa) "Project Contractors" shall mean all parties who have a long-term water
222 service contract or repayment contract for Project Water from the Project with the United States
223 pursuant to Federal Reclamation law;

224 (bb) "Project Water" shall mean all water that is developed, diverted, stored, or
225 delivered by the Secretary in accordance with the statutes authorizing the Project and in
226 accordance with the terms and conditions of water rights acquired pursuant to California law;

227 (cc) "Rates" shall mean the payments for O&M costs as determined annually
228 by the Contracting Officer in accordance with the then-existing applicable water ratesetting

229 policies for the Project, as described in subdivision (a) of Article 7 of this Contract and
230 illustrated in Exhibit "B", attached hereto;

231 (dd) "Recovered Water Account" shall mean the program, as defined in the
232 Settlement, to make water available to all of the Friant Division Project Contractors who provide
233 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the
234 impact of the interim flows and restoration flows on such contractors;

235 (ee) "Repayment Obligation", as provided in subdivision (a)(2)(A) of Article 7
236 of this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by
237 one-half of the Treasury rate and computed consistent with the provisions of Section
238 10010(a)(3)(A) of the SJRRSA to be paid as either a lump sum payment by January 31, 2011 or
239 in approximately equal annual installments by January 31, 2014;

240 (ff) "Secretary" shall mean the Secretary of the Interior, a duly appointed
241 successor, or an authorized representative acting pursuant to any authority of the Secretary and
242 through any agency of the Department of the Interior;

243 (gg) "Settlement" shall mean the Stipulation of Settlement dated September 13,
244 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued
245 by the Court pursuant to the terms and conditions of the Settlement in Natural Resources
246 Defense Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

247 (hh) "Tiered Pricing Component" shall be the incremental amount to be paid
248 for each acre-foot of Water Delivered as described in subdivision (l)(1) of Article 7 of this
249 Contract;

250 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water
251 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
252 Officer;

253 (jj) "Water Made Available" shall mean the estimated amount of Project
254 Water that can be delivered to the Contractor for the upcoming Year as declared by the
255 Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

256 (kk) "Water Management Goal" shall mean the goal of the Settlement to
257 reduce or avoid adverse water supply impacts to all the Friant Division Project Contractors that
258 may result from the interim flows and restoration flows provided for in the Settlement;

259 (ll) "Water Scheduled" shall mean Project Water made available to the
260 Contractor for which times and quantities for delivery have been established by the Contractor
261 and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

262 (mm) "Year" shall mean the period from and including March 1 of each
263 Calendar Year through the last day of February of the following Calendar Year.

264 EFFECTIVE DATE OF CONTRACT

265 2. (a) This Contract shall become effective on the date first hereinabove written
266 and shall continue so long as the Contractor is making the annual payments required herein and
267 paying any other amounts owing under this Contract and applicable law, unless it is terminated
268 by the Contracting Officer by reason of a material uncured breach by the Contractor; Provided,
269 That the Contracting Officer shall not seek to terminate this Contract by reason of an asserted
270 material uncured breach by the Contractor unless it has first provided at least sixty (60) days

271 written notice of the asserted breach to the Contractor and the Contractor has failed to cure such
272 breach (or to diligently commence curative actions satisfactory to the Contracting Officer for a
273 breach that cannot be fully cured within sixty (60) days) within the sixty (60)-day notice period;
274 Provided further, That this Contract may be terminated at any time by mutual consent of the
275 parties hereto.

276 (b) Upon complete payment of the Repayment Obligation by the Contractor,
277 and notwithstanding any Additional Capital Obligation that may later be established, the Tiered
278 Pricing Component as that term is utilized in this Contract, the acreage limitations, reporting, and
279 Full Cost pricing provisions of Federal Reclamation law, and subdivisions (k), (l), (o) through
280 (q), (s), and (v) of Article 1, subdivisions (a)(2)(A), (l)(1), (l)(2), and (l)(3) of Article 7, Article
281 14, subdivision (a) of Article 18, and Article 25, all of this Contract, shall no longer be
282 applicable to the Contractor. Upon complete payment of the Repayment Obligation by the
283 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
284 the terms of this Contract shall be as provided in the restated contract attached hereto as Exhibit
285 "E", which has been prepared solely as a matter of administrative convenience. Exhibit "E"
286 makes no substantive revisions other than those required by this subdivision of this Article of
287 this Contract. Accordingly, upon complete payment of the Repayment Obligation by the
288 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
289 the parties shall refer to Exhibit "E" as their entire agreement under this Contract.

290 (c) This Contract supersedes in its entirety and is intended to replace in full
291 the Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or

292 unenforceable for any reason other than a material uncured breach of this Contract by the
293 Contractor, the Existing Contract shall not be superseded and shall be in full force and effect.

294 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

295 3. (a) During each Year, consistent with all applicable State water rights,
296 permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the
297 provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make
298 available for delivery to the Contractor from the Project 97,000 acre-feet of Class 1 Water and
299 50,000 acre-feet of Class 2 Water for irrigation and M&I purposes. The quantity of Water
300 Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for
301 pursuant to the provisions of Articles 4 and 7 of this Contract.

302 (b) Upon complete payment of the Repayment Obligation by the Contractor,
303 and notwithstanding any Additional Capital Obligation that may later be established, the
304 Contractor shall have a permanent right to the Contract Total in accordance with the 1956 Act
305 and the terms of this Contract. This right shall not be disturbed so long as the Contractor fulfills
306 all of its obligations hereunder. The quantity of water made available for delivery in any given
307 Year shall remain subject to the terms and conditions of subdivision (a) of this Article of this
308 Contract.

309 (c) The Contractor shall utilize the Project Water in accordance with all
310 applicable legal requirements.

311 (d) The Contractor shall make reasonable and beneficial use of all Project
312 Water or other water furnished pursuant to this Contract. Groundwater recharge programs,

313 groundwater banking programs, surface water storage programs, and other similar programs
314 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
315 Contractor's Service Area which are consistent with applicable State law and result in use
316 consistent with applicable Federal Reclamation law will be allowed; Provided, That any direct
317 recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted
318 pursuant to Article 27 of this Contract; Provided further, That such Water Conservation Plan
319 demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a
320 long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such
321 uses and in compliance with Federal Reclamation law. Groundwater recharge programs,
322 groundwater banking programs, surface water storage programs, and other similar programs
323 utilizing Project Water or other water furnished pursuant to this Contract conducted outside the
324 Contractor's Service Area may be permitted upon written approval of the Contracting Officer,
325 which approval will be based upon environmental documentation, Project Water rights, and
326 Project operational concerns. The Contracting Officer will address such concerns in regulations,
327 policies, or guidelines.

328 (e) The Contractor, through this Contract, shall comply with requirements
329 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation
330 regarding the execution of the Existing Contract undertaken pursuant to Section 7 of the
331 Endangered Species Act of 1973, as amended, as well as the requirements of any other biological
332 opinions applicable to Project Water delivery under this Contract, that are within the
333 Contractor's legal authority to implement. The Contractor shall comply with the limitations or

334 requirements imposed by environmental documentation applicable to the Contractor and within
335 its legal authority to implement regarding specific activities, including conversion of Irrigation
336 Water to M&I Water. Nothing herein shall be construed to prevent the Contractor from
337 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
338 biological opinion or other environmental documentation referred to in this Article of this
339 Contract.

340 (f) Subject to subdivisions (l) and (n) of this Article of this Contract,
341 following the declaration of Water Made Available under Article 4 of this Contract, the
342 Contracting Officer will make a determination whether Project Water, or other water available to
343 the Project, can be made available to the Contractor in addition to the Contract Total in this
344 Article of this Contract during the Year without adversely impacting the Project or other Project
345 Contractors and consistent with the Secretary's legal obligations. At the request of the
346 Contractor, the Contracting Officer will consult with the Contractor prior to making such a
347 determination. Subject to subdivisions (l) and (n) of this Article of this Contract, if the
348 Contracting Officer determines that Project Water, or other water available to the Project, can be
349 made available to the Contractor, the Contracting Officer will announce the availability of such
350 water and shall so notify the Contractor as soon as practical. The Contracting Officer will
351 thereafter meet with the Contractor and other Project Contractors capable of taking such water to
352 determine the most equitable and efficient allocation of such water. If the Contractor requests
353 the delivery of any quantity of such water, the Contracting Officer shall make such water

354 available to the Contractor in accordance with applicable statutes, regulations, guidelines, and
355 policies.

356 (g) The Contractor may request permission to reschedule for use during the
357 subsequent Year some or all of the Water Made Available to the Contractor during the current
358 Year referred to as "carryover." The Contractor may request permission to use during the
359 current Year a quantity of Project Water which may be made available by the United States to
360 the Contractor during the subsequent Year referred to as "pre-use." The Contracting Officer's
361 written approval may permit such uses in accordance with applicable statutes, regulations,
362 guidelines, and policies.

363 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
364 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract
365 shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this
366 Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to
367 impose shortages under Article 12 or subdivision (b) of Article 13 of this Contract.

368 (i) Project Water furnished to the Contractor pursuant to this Contract may be
369 delivered for purposes other than those described in subdivisions (r) and (u) of Article 1 of this
370 Contract upon written approval by the Contracting Officer in accordance with the terms and
371 conditions of such approval.

372 (j) The Contracting Officer shall make reasonable efforts to protect the water
373 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to
374 provide the water available under this Contract. The Contracting Officer shall not object to

375 participation by the Contractor, in the capacity and to the extent permitted by law, in
376 administrative proceedings related to the water rights and other rights described in the fifth (5th)
377 Explanatory Recital of this Contract; Provided however, That the Contracting Officer retains the
378 right to object to the substance of the Contractor's position in such a proceeding. Provided
379 further, that in such proceedings the Contracting Officer shall recognize the Contractor has a
380 legal right under the terms of this Contract to use Project Water.

381 (k) Project Water furnished to the Contractor during any month designated in
382 a schedule or revised schedule submitted by the Contractor and approved by the Contracting
383 Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent
384 that Class 1 Water is called for in such schedule for such month and shall be deemed to have
385 been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such
386 month. If in any month the Contractor diverts a quantity of water in addition to the total amount
387 of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised
388 schedule for such month, such additional diversions shall be charged first against the
389 Contractor's remaining Class 2 Water supply available in the current Year. To the extent the
390 Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to
391 account for such additional diversions, such additional diversions shall be charged against the
392 Contractor's remaining Class 1 Water supply available in the current Year. To the extent the
393 Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year
394 are not sufficient to account for such additional diversions, such additional diversions shall be
395 charged first against the Contractor's available Class 2 Water supply and then against the

396 Contractor's available Class 1 Water supply, both for the following Year. Payment for all
397 additional diversions of water shall be made in accordance with Article 7 of this Contract.

398 (l) If the Contracting Officer determines there is a Project Water supply
399 available at Friant Dam as the result of an unusually large water supply not otherwise storable for
400 Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such
401 water will be made available to the Contractor and others under Section 215 of the Act of
402 October 12, 1982, pursuant to the priorities specified below if the Contractor enters into a
403 temporary contract with the United States not to exceed one (1) year for the delivery of such
404 water or as otherwise provided for in Federal Reclamation law and associated regulations. Such
405 water may be identified by the Contractor either (i) as additional water to supplement the supply
406 of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon
407 written notification to the Contracting Officer, as water to be credited against the Contractor's
408 Class 2 Water supply available pursuant to this Contract. The Contracting Officer shall make
409 water determined to be available pursuant to this subsection according to the following priorities:
410 first, to contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to
411 contractors in the Cross Valley Division of the Project. The Contracting Officer will consider
412 requests from other parties for Section 215 Water for use within the area identified as the Friant
413 Division service area in the environmental assessment developed in connection with the
414 execution of the Existing Contract.

415 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
416 Contracting Officer in connection with the implementation of this Contract, is intended to

417 override, modify, supersede or otherwise interfere with any term or condition of the water rights
418 and other rights referred in the fifth (5th) Explanatory Recital of this Contract.

419 (n) The rights of the Contractor under this Contract are subject to the terms of
420 the contract for exchange waters, dated July 27, 1939, between the United States and the San
421 Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred
422 to as the Exchange Contractors), Contract No. 11r-1144, as amended. The United States agrees
423 that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River
424 unless and until required by the terms of said contract, and the United States further agrees that it
425 will not voluntarily and knowingly determine itself unable to deliver to the Exchange
426 Contractors entitled thereto from water that is available or that may become available to it from
427 the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities
428 required to satisfy the obligations of the United States under said Exchange Contract and under
429 Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract 11r-1145,
430 dated July 27, 1939).

431 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph
432 16 of the Settlement, the Contracting Officer is required to develop and implement a plan for
433 recirculation, recapture, reuse, exchange or transfer of water released for restoration flows or
434 interim flows, as those terms are defined in the Settlement, to reduce or avoid impacts to water
435 deliveries caused by said restoration flows or interim flows and water developed through such
436 activities may be made available (i) to the Contractor without the need of an additional contract,

437 and/or (ii) to others on behalf of the Contractor under terms mutually acceptable to the
438 Contractor and the Contracting Officer that are consistent with the Water Management Goal.

439 TIME FOR DELIVERY OF WATER

440 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
441 shall announce the Contracting Officer's initial declaration of the Water Made Available. The
442 declaration will be updated monthly and more frequently if necessary, based on then-current
443 operational and hydrologic conditions and a new declaration with changes, if any, to the Water
444 Made Available will be made. The Contracting Officer shall provide forecasts of Project
445 operations and the basis of the estimate, with relevant supporting information, upon the written
446 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
447 Contracting Officer shall provide the Contractor with the updated Long Term Historic Average.
448 The declaration of Project operations will be expressed in terms of both Water Made Available
449 and the Long Term Historic Average.

450 (b) On or before each March 1 and at such other times as necessary, the
451 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the
452 Contracting Officer, showing the monthly quantities of Project Water to be delivered by the
453 United States to the Contractor pursuant to this Contract for the Year commencing on such
454 March 1. The Contracting Officer shall use all reasonable means to deliver Project Water
455 according to the approved schedule for the Year commencing on such March 1.

456 (c) The Contractor shall not schedule Project Water in excess of the quantity
457 of Project Water the Contractor intends to put to reasonable and beneficial use within the

458 Contractor's Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract
459 or bank pursuant to subdivision (d) of Article 3 of this Contract during any Year.

460 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
461 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
462 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any
463 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
464 time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided,
465 That the total amount of water requested in that schedule or revision does not exceed the
466 quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of
467 Article 3 of this Contract, and the Contracting Officer determines that there will be sufficient
468 capacity available in the appropriate Friant Division Facilities to deliver the water in accordance
469 with that schedule; Provided further, That the Contractor shall not schedule the delivery of any
470 water during any period as to which the Contractor is notified by the Contracting Officer or
471 Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor
472 will not be in operation because of scheduled O&M.

473 (e) The Contractor may, during the period from and including November 1 of
474 each Year through and including the last day of February of that Year, request delivery of any
475 amount of the Class 1 Water estimated by the Contracting Officer to be made available to it
476 during the following Year. The Contractor may, during the period from and including January 1
477 of each Year (or such earlier date as may be determined by the Contracting Officer) through and
478 including the last day of February of that Year, request delivery of any amount of Class 2 Water

479 estimated by the Contracting Officer to be made available to it during the following Year. Such
480 water shall hereinafter be referred to as pre-use water. Such request must be submitted in writing
481 by the Contractor for a specified quantity of pre-use and shall be subject to the approval of the
482 Contracting Officer. Payment for pre-use water so requested shall be at the appropriate Rate(s)
483 for the following Year in accordance with Article 7 of this Contract and shall be made in
484 advance of delivery of any pre-use water. The Contracting Officer shall deliver such pre-use
485 water in accordance with a schedule or any revision thereof submitted by the Contractor and
486 approved by the Contracting Officer, to the extent such water is available and to the extent such
487 deliveries will not interfere with the delivery of Project Water entitlements to other Friant
488 Division contractors or the physical maintenance of the Project facilities. The quantities of
489 pre-use Water Delivered pursuant to this subdivision shall be deducted from the quantities of
490 water that the Contracting Officer would otherwise be obligated to make available to the
491 Contractor during the following Year; Provided, That the quantity of pre-use water to be
492 deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the
493 Contractor in the following Year shall be specified by the Contractor at the time the pre-use
494 water is requested or as revised in its first schedule for the following Year submitted in
495 accordance with subdivision (b) of this Article of this Contract, based on the availability of the
496 following Year water supplies as determined by the Contracting Officer.

497 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

498 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
499 Contract shall be delivered to the Contractor at a point or points of delivery either on Project

500 facilities or another location or locations mutually agreed to in writing by the Contracting Officer
501 and the Contractor.

502 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
503 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of
504 water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts
505 established pursuant to subdivision (a) of this Article of this Contract.

506 (c) The Contractor shall not deliver Project Water to land outside the
507 Contractor's Service Area unless approved in advance by the Contracting Officer. Until
508 complete payment of the Repayment Obligation by the Contractor, and notwithstanding any
509 Additional Capital Obligation that may later be established, the Contractor shall deliver Project
510 Water in accordance with applicable acreage limitations, reporting, and Full Cost pricing
511 provisions of Federal Reclamation law and any applicable land classification provisions of the
512 associated regulations.

513 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
514 measured and recorded with equipment furnished, installed, operated, and maintained by the
515 United States, the Operating Non-Federal Entity or other appropriate entity as designated by the
516 Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery
517 established pursuant to subdivision (a) of this Article of this Contract. Upon the request of either
518 party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the
519 responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any
520 necessary steps to adjust any errors appearing therein. For any period of time when accurate

521 measurements have not been made, the Contracting Officer shall consult with the Contractor and
522 the responsible Operating Non-Federal Entity prior to making a final determination of the
523 quantity delivered for that period of time.

524 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity
525 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project
526 Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified
527 in subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United
528 States, its officers, employees, agents, and assigns on account of damage or claim of damage of
529 any nature whatsoever for which there is legal responsibility, including property damage,
530 personal injury, or death arising out of or connected with the control, carriage, handling, use,
531 disposal, or distribution of such Project Water beyond such delivery points, except for any
532 damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its
533 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity,
534 with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct
535 of the Contracting Officer or any of its officers, employees, agents, or assigns, including any
536 responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of
537 its officers, employees, agents, or assigns including any responsible Operating Non-Federal
538 Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
539 by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor
540 is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies)
541 from which the damage claim arose.

542 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

543 6. (a) The Contractor has established a measurement program satisfactory to the
544 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
545 Service Area is measured at each agricultural turnout; and water delivered for municipal and
546 industrial purposes is measured at each municipal and industrial service connection. The water
547 measuring devices or water measuring methods of comparable effectiveness must be acceptable
548 to the Contracting Officer. The Contractor shall be responsible for installing, operating, and
549 maintaining and repairing all such measuring devices and implementing all such water
550 measuring methods at no cost to the United States. The Contractor shall use the information
551 obtained from such water measuring devices or water measuring methods to ensure its proper
552 management of the water, to bill water users for water delivered by the Contractor; and, if
553 applicable, to record water delivered for municipal and industrial purposes by customer class as
554 defined in the Contractor's water conservation plan provided for in Article 27 of this Contract.
555 Nothing herein contained, however, shall preclude the Contractor from establishing and
556 collecting any charges, assessments, or other revenues authorized by California law.

557 (b) To the extent the information has not otherwise been provided, upon
558 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
559 report describing the measurement devices or water measuring methods being used or to be used
560 to implement subdivision (a) of this Article of this Contract and identifying the agricultural
561 turnouts and the municipal and industrial service connections or alternative measurement
562 programs approved by the Contracting Officer, at which such measurement devices or water

563 measuring methods are being used, and, if applicable, identifying the locations at which such
564 devices and/or methods are not yet being used including a time schedule for implementation at
565 such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60)
566 days as to the adequacy of, and necessary modifications, if any, of the measuring devices or
567 water measuring methods identified in the Contractor's report and if the Contracting Officer does
568 not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the
569 Contractor that the measuring devices or methods are inadequate, the parties shall within sixty
570 (60) days following the Contracting Officer's response, negotiate in good faith the earliest
571 practicable date by which the Contractor shall modify said measuring devices and/or measuring
572 methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this
573 Article of this Contract.

574 (c) All new surface water delivery systems installed within the Contractor's
575 Service Area after the effective date of this Contract shall also comply with the measurement
576 provisions described in subdivision (a) of this Article of this Contract.

577 (d) The Contractor shall inform the Contracting Officer and the State of
578 California in writing by April 30 of each Year of the monthly volume of surface water delivered
579 within the Contractor's Service Area during the previous Year.

580 (e) The Contractor shall inform the Contracting Officer and the Operating
581 Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity
582 of Irrigation and M&I Water taken during the preceding month.

583 RATES, METHOD OF PAYMENT FOR WATER,
584 AND ACCELERATED REPAYMENT OF FACILITIES

585 7. (a) The Contractor's cost obligations for all Delivered Water shall be
586 determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted
587 in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the
588 SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a
589 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated
590 rules and regulations, or policies; and (iii) other applicable provisions of this Contract.

591 (1) The Contractor shall pay the United States as provided for in this
592 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance
593 with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to
594 recover its estimated reimbursable costs included in the O&M component of the Rate and
595 amounts established to recover other charges and deficits, other than the construction costs. The
596 Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the
597 provisions of the SJRRSA.

598 (2) In accordance with the SJRRSA, the Contractor's allocable share
599 of Project construction costs will be repaid pursuant to the provisions of this Contract.

600 (A) The amount due and payable to the United States, pursuant
601 to the SJRRSA, shall be the Repayment Obligation. The Repayment Obligation has been
602 computed by the Contracting Officer in a manner consistent with the SJRRSA and is set forth,
603 both as a lump sum payment and as four (4) approximately equal annual installments, which

604 amounts together with the manner in which such amounts were calculated are set forth in
605 Exhibits "C-1" and "C-2". The Repayment Obligation is due in lump sum by January 31, 2011
606 or in approximate equal annual installments no later than January 31, 2014, as provided by the
607 SJRRSA. The Contractor must provide appropriate notice to the Contracting Officer in writing
608 not later than thirty (30) days prior to January 31, 2011 if electing to repay the amount due using
609 the lump sum alternative. If such notice is not provided by such date, the Contractor shall be
610 deemed to have elected the installment payment alternative, in which case, the first such payment
611 shall be made no later than May 1, 2011, the second payment shall be made no later than the first
612 anniversary of the first payment date, the third payment shall be made no later than the second
613 anniversary of the first payment date, and the final payment shall be made no later than January
614 31, 2014. If the installment payment option is elected by the Contractor, the Contractor may
615 pre-pay the remaining portion of the Repayment Obligation by giving the Contracting Officer
616 sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the
617 remaining amount due to reflect the pre-payment using the same methodology as was used to
618 compute the initial annual installment payment amount, which is illustrated in Exhibit "C-2".
619 Notwithstanding any Additional Capital Obligation that may later be established, receipt of the
620 Contractor's payment of the Repayment Obligation by the United States shall fully and
621 permanently satisfy the Existing Capital Obligation.

622 (B) Project construction costs or other capitalized costs
623 attributable to capital additions to the Project incurred after the effective date of this Contract or
624 that are not reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly

625 assignable to the Contractor, shall be repaid as prescribed by the SJRRSA without interest except
626 as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue
627 on the M&I portion of unpaid Project construction costs or other capitalized cost assigned to the
628 Contractor until such costs are paid. Increases or decreases in Project construction costs or other
629 capitalized costs assigned to the Contractor caused solely by annual adjustment of Project
630 construction costs or other capitalized costs assigned to each Central Valley Project contractor by
631 the Secretary shall not be considered in determining the amounts to be paid pursuant to this
632 subdivision (a)(2)(B), but will be considered under subdivision (b) of this Article. A separate
633 repayment agreement shall be established by the Contractor and the Contracting Officer to
634 accomplish repayment of all additional Project construction costs or other capitalized costs
635 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the
636 following:

637 (1) If the collective annual Project construction costs or
638 other capitalized costs that are incurred after the effective date of this Contract and properly
639 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly
640 assignable to the Contractor shall be repaid in not more than five (5) years after notification of
641 the allocation. This amount is the result of a collective annual allocation of Project construction
642 costs to the contractors exercising contract conversions; Provided, That the reference to the
643 amount of \$5,000,000 shall not be a precedent in any other context.

644 (2) If the collective annual Project construction costs or
645 other capitalized costs that are incurred after the effective date of this Contract and properly

646 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly
647 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law.
648 This amount is the result of a collective annual allocation of Project construction costs to the
649 contractors exercising contract conversions; Provided, That the reference to the amount of
650 \$5,000,000 shall not be a precedent in any other context.

651 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
652 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
653 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any
654 reallocation of Project construction costs or other capitalized costs assigned to the Contractor
655 that may have occurred between the determination of Contractor's Existing Capital Obligation
656 and the final cost allocation. In the event that the final cost allocation, as determined by the
657 Secretary, indicates that the costs properly assignable to the Contractor, as determined by the
658 Contracting Officer, are greater than the Existing Capital Obligation and other amounts of
659 Project construction costs or other capitalized costs paid by the Contractor, then the Contractor
660 shall be obligated to pay the remaining allocated costs. The term of such additional repayment
661 contract shall be no less than one (1) year and no more than ten (10) years, however, mutually
662 agreeable provisions regarding the rate of repayment of such amount may be developed by the
663 parties. In the event that the final cost allocation, as determined by the Secretary, indicates that
664 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are less
665 than the Existing Capital Obligation and other amounts of Project construction costs or other
666 capitalized costs paid by the Contractor, then the Contracting Officer shall credit such

667 overpayment as an offset against any outstanding or future obligation of the Contractor,
668 consistent with the SJRRSA. This Contract shall be implemented in a manner consistent with
669 Section 10010(f) of the SJRRSA.

670 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall
671 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
672 period October 1, of the current Calendar Year, through September 30, of the following Calendar
673 Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2)
674 months to review and comment on such estimates. On or before September 15 of each Calendar
675 Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect
676 during the period October 1 of the current Calendar Year, through September 30 of the following
677 Calendar Year, and such notification shall revise Exhibit "B". Charges shall be subject to
678 reduction consistent with the SJRRSA based upon the average annual delivery amount agreed to
679 by the Contracting Officer and the Contractor.

680 (1) Upon complete payment of the Repayment Obligation by the
681 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
682 for the years 2020 through 2039 inclusive, Charges shall reflect the reduction on a per acre-foot
683 basis consistent with Section 10010(d)(1) of the SJRRSA. Exhibit "D" sets forth the reduction in
684 Charges to offset the Financing Costs as prescribed in Section 10010(d)(1) of the SJRRSA;
685 Provided, That if the Secretary determines such Charges are otherwise needed, an equivalent
686 reduction will be made to O&M costs consistent with such provisions of the SJRRSA.
687 Consistent with Section 10010(d)(1) of the SJRRSA and as shown in Exhibit "D", the Friant

688 Surcharge reduction has been calculated based upon the anticipated average annual water
689 deliveries, for the purpose of this reduction only, mutually agreed upon by the Secretary and the
690 Contractor for the period from January 1, 2020 through December 31, 2039. The Friant
691 Surcharge reduction shall remain fixed and shall only be applied to Water Delivered pursuant to
692 this Contract to which the Friant Surcharge applies (including but not limited to water
693 transferred, banked, or exchanged), commencing on January 1, 2020 until such volume of Water
694 Delivered equals 1,789,000 acre-feet or December 31, 2039, whichever occurs first.

695 (2) Further, to fully offset the Financing Costs, Contractor shall be
696 entitled to a reduction in other outstanding or future obligations of the Contractor in accordance
697 with Section 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding
698 or future obligations of the Contractor after October 1, 2019 has been computed by the
699 Contracting Officer, and as computed, such amount is set forth in Exhibit "D".

700 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall
701 make available to the Contractor an estimate of the Rates and Tiered Pricing Component for
702 Project Water for the following Year and the computations and cost allocations upon which those
703 Rates are based. The Contractor shall be allowed not less than two (2) months to review and
704 comment on such computations and cost allocations. By December 31 of each Calendar Year,
705 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing
706 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B".
707 The O&M component of the Rate may be reduced as provided in the SJRRSA.

708 (e) At the time the Contractor submits the initial schedule for the delivery of
709 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
710 Contractor shall make an advance payment to the United States equal to the total amount payable
711 pursuant to the applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the
712 Project Water scheduled to be delivered pursuant to this Contract during the first two (2)
713 calendar months of the Year. Before the end of the first month and before the end of each
714 calendar month thereafter, the Contractor shall make an advance payment to the United States, at
715 the Rate(s) set under subdivision (a) of this Article of this Contract, for the Water Scheduled to
716 be delivered pursuant to this Contract during the second month immediately following.

717 Adjustments between advance payments for Water Scheduled and payments at Rates due for
718 Water Delivered shall be made before the end of the following month; Provided, That any
719 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which
720 increases the amount of Water Delivered pursuant to this Contract during any month shall be
721 accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project
722 Water is not delivered to the Contractor in advance of such payment. In any month in which the
723 quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of
724 Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered
725 to the Contractor unless and until an advance payment at the Rates then in effect for such
726 additional Project Water is made. Final adjustment between the advance payments for the Water
727 Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this
728 Contract shall be made as soon as practicable but no later than April 30th of the following Year,

729 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article
730 3 of this Contract if such water is not delivered by the last day of February.

731 (f) The Contractor shall also make a payment in addition to the Rate(s) in
732 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
733 Charges and the appropriate Tiered Pricing Component then in effect, before the end of the
734 month following the month of delivery; Provided, That the Contractor may be granted an
735 exception from the Tiered Pricing Component pursuant to subdivision (l)(2) of this Article of this
736 Contract. The payments shall be consistent with the quantities of Irrigation Water and M&I
737 Water Delivered as shown in the water delivery report for the subject month prepared by the
738 Contracting Officer. Such water delivery report shall be the basis for payment of Charges and
739 Tiered Pricing Components by the Contractor, and shall be provided to the Contractor by the
740 Contracting Officer (as applicable) within five (5) days after the end of the month of delivery.
741 The water delivery report shall be deemed a bill basis for payment of Charges and the applicable
742 Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment
743 of Charges shall be made through the adjustment of payments due to the United States for
744 Charges for the next month. Any amount to be paid for past due payment of Charges shall be
745 computed pursuant to Article 21 of this Contract.

746 (g) The Contractor shall pay for any Water Delivered under subdivision (d),
747 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to
748 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
749 policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this

750 Contract shall be no more than the otherwise applicable Rate for Irrigation Water or M&I Water
751 under subdivision (a) of this Article of this Contract.

752 (h) Payments to be made by the Contractor to the United States under this
753 Contract may be paid from any revenues available to the Contractor.

754 (i) All revenues received by the United States from the Contractor relating to
755 the delivery of Project Water or the delivery of non-project water through Project facilities shall
756 be allocated and applied in accordance with Federal Reclamation law and the associated rules or
757 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
758 consistent with the SJRRSA.

759 (j) The Contracting Officer shall keep its accounts, pertaining to the
760 administration of the financial terms and conditions of its long-term contracts, in accordance
761 with applicable Federal standards so as to reflect the application of Project costs and revenues.
762 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
763 Contractor a detailed accounting of all Project and Contractor expense allocations, the
764 disposition of all Project and Contractor revenues, and a summary of all water delivery
765 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
766 to resolve any discrepancies or disputes relating to accountings, reports, or information.

767 (k) The parties acknowledge and agree that the efficient administration of this
768 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
769 policies, and procedures used for establishing Rates, Charges, Tiered Pricing Components,
770 and/or for making and allocating payments, other than those set forth in this Article of this

771 Contract, may be in the mutual best interest of the parties, it is expressly agreed that the parties
772 may enter into agreements to modify the mechanisms, policies, and procedures for any of those
773 purposes while this Contract is in effect without amending this Contract.

774 (l) (1) Beginning at such time as the total of the deliveries of Class 1
775 Water and Class 2 Water in a Year exceed eighty (80) percent of the Contract Total, then before
776 the end of the month following the month of delivery the Contractor shall make an additional
777 payment to the United States equal to the applicable Tiered Pricing Component. The Tiered
778 Pricing Component for the total of the deliveries of Class 1 Water and Class 2 Water in excess of
779 eighty (80) percent of the Contract Total, but less than or equal to ninety (90) percent of the
780 Contract Total, shall equal the one-half of the difference between the Rate established under
781 subdivision (a) of this Article of this Contract and the Irrigation Full Cost Water Rate, or M&I
782 Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the total of
783 the deliveries of Class 1 Water and Class 2 Water which exceeds ninety (90) percent of the
784 Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of
785 this Article of this Contract and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water
786 Rate, whichever is applicable.

787 (2) Subject to the Contracting Officer's written approval, the
788 Contractor may request and receive an exemption from such Tiered Pricing Components for
789 Project Water Delivered to produce a crop which the Contracting Officer determines will provide
790 significant and quantifiable habitat values for waterfowl in fields where the water is used and the
791 crops are produced; Provided, That the exemption from the Tiered Pricing Components for

792 Irrigation Water shall apply only if such habitat values can be assured consistent with the
793 purposes of CVPIA through binding agreements executed with or approved by the Contracting
794 Officer prior to use of such water.

795 (3) For purposes of determining the applicability of the Tiered Pricing
796 Components pursuant to this Article of this Contract, Water Delivered shall include Project
797 Water that the Contractor transfers to others but shall not include Project Water transferred and
798 delivered to the Contractor.

799 (m) Rates under the respective ratesetting policies will be established to
800 recover only reimbursable O&M (including any deficits) costs of the Project, as those terms are
801 used in the then-existing Project ratesetting policies, and consistent with the SJRRSA, and
802 interest, where appropriate, except in instances where a minimum Rate is applicable in
803 accordance with the relevant Project ratesetting policy. Changes of significance in practices
804 which implement the Contracting Officer's ratesetting policies will not be implemented until the
805 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
806 impact of the proposed change.

807 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
808 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
809 adjusted upward or downward to reflect the changed costs of delivery (if any) incurred by the
810 Contracting Officer in the delivery of the transferred Project Water to the transferee's point of
811 delivery in accordance with the then-existing Central Valley Project Ratesetting Policy.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore shall have no further liability.

RECOVERED WATER ACCOUNT

9. (a) Notwithstanding any other provisions of this Contract, water delivered to the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of \$10.00 per acre foot. Recovered Water Account water provided to the Contractor shall be administered at a priority for delivery lower than Class 2 Water and higher than Section 215 Water.

(b) The manner in which the Recovered Water Account will be administered will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and Paragraph 16 of the Settlement.

SALES, TRANSFERS, AND EXCHANGES OF WATER

10. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivisions (b) and (c) of this Article of this Contract . No

833 such Project Water sales, transfers, or exchanges shall be approved, where approval is required,
834 absent compliance with appropriate environmental documentation including but not limited to
835 the National Environmental Policy Act and the Endangered Species Act. Such environmental
836 documentation must include, as appropriate, an analysis of groundwater impacts and economic
837 and social effects, including environmental justice, of the proposed Project Water sales, transfers
838 and exchanges on both the transferor/exchanger and transferee/exchange recipient.

839 (b) In order to facilitate efficient water management by means of Project
840 Water sales, transfers, or exchanges of the type historically carried out among Project
841 Contractors located within the same geographical area and to allow the Contractor to participate
842 in an accelerated water transfer program, the Contracting Officer has prepared, as appropriate,
843 necessary environmental documentation including, but not limited to, the National
844 Environmental Policy Act and the Endangered Species Act analyzing annual Project Water sales,
845 transfers, or exchanges among Contractors within the same geographical area and the
846 Contracting Officer has determined that such Project Water sales, transfers, and exchanges
847 comply with applicable law.

848 (c) Project Water sales, transfers, and exchanges analyzed in the
849 environmental documentation referenced in subdivision (b) of this Article of this Contract, shall
850 be conducted with advance notice to the Contracting Officer and the Contracting Officer's
851 written acknowledgement of the transaction, but shall not require prior written approval by the
852 Contracting Officer.

853 (d) For Project Water sales, transfers, or exchanges to qualify under
854 subdivision (b) of this Article of this Contract such Project Water sale, transfer, or exchange
855 must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for
856 M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface
857 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
858 established cropland, wildlife refuges, groundwater basins or municipal and industrial use;
859 (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer or willing
860 exchangers; (iv) convey water through existing facilities with no new construction or
861 modifications to facilities and be between existing Project Contractors and/or the Contractor and
862 the United States, Department of the Interior; and (v) comply with all applicable Federal, State,
863 and local or tribal laws and requirements imposed for protection of the environment and Indian
864 Trust Assets, as defined under Federal law.

865 (e) The environmental documentation and the Contracting Officer's
866 compliance determination for transactions described in subdivision (b) of this Article of this
867 Contract shall be reviewed every five (5) years and updated, as necessary, prior to the expiration
868 of the then-existing five (5) year period. All subsequent environmental documentation shall
869 include an alternative to evaluate not less than the quantity of Project Water historically sold,
870 transferred, or exchanged within the same geographical area.

871 (f) Consistent with Section 10010(e)(l) of the SJRSA, any agreement
872 providing for sale, transfer, or exchange of Project Water that is not used for interim flows or
873 restoration flows pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy

874 the requirements of CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or
875 exchanges comply with sub-division (f)(1) and (f)(2) below.

876 (1) Project Water sales, transfers, and exchanges conducted under the
877 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting
878 Officer's concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the
879 Contractor shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1)
880 year, provide ninety (90) days written advance notification to the Contracting Officer and
881 similarly thirty (30) days written advance notification of any Project Water sale, transfer, or
882 exchange with a term of less than one (1) year. The Contracting Officer shall promptly make
883 such notice publicly available.

884 (2) The Contractor's thirty (30) days or ninety (90) days advance
885 written notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain
886 how the proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or
887 mitigate impacts to Project Water deliveries caused by interim or restoration flows or is
888 otherwise intended to facilitate the Water Management Goal as described in the SJRRSA. The
889 Contracting Officer shall promptly make such notice publicly available.

890 (3) In addition, the Contracting Officer shall, at least annually, make
891 available publicly a compilation of the number of Project Water sales, transfers, and exchange
892 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
893 Contract.

894 (4) Project Water sold, transferred, or exchanged under an agreement
895 that meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be
896 counted as a replacement or an offset for purposes of determining reductions to Project Water
897 deliveries to any Friant Division Project Contractor except as provided in Paragraph 16(b) of the
898 Settlement.

899 (g) Upon complete payment of the Repayment Obligation by the Contractor,
900 and notwithstanding any Additional Capital Obligation that may later be established, in the case
901 of a sale or transfer of Irrigation Water to another contractor which is otherwise subject to the
902 acreage limitations, reporting, and Full Cost pricing provisions of the RRA, such sold or
903 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of
904 a sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to
905 RRA provisions, such RRA provisions shall apply to delivery of such water.

906 APPLICATION OF PAYMENTS AND ADJUSTMENTS

907 11. (a) The amount of any overpayment by the Contractor of the Contractor's
908 O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current
909 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
910 more than One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu
911 of a refund, any amount of such overpayment, at the option of the Contractor, may be credited
912 against amounts to become due to the United States by the Contractor. With respect to
913 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or
914 anyone having or claiming to have the right to the use of any of the Project Water supply

915 provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
916 days of the Contracting Officer obtaining direction as to how to credit or refund such
917 overpayment in response to the notice to the Contractor that it has finalized the accounts for the
918 Year in which the overpayment was made.

919 (b) All advances for miscellaneous costs incurred for work requested by the
920 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs
921 when the work has been completed. If the advances exceed the actual costs incurred, the
922 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
923 advances, the Contractor will be billed for the additional costs pursuant to Article 26 of this
924 Contract.

925 TEMPORARY REDUCTIONS—RETURN FLOWS

926 12. (a) The Contracting Officer shall make all reasonable efforts to optimize
927 delivery of the Contract Total subject to: (i) the authorized purposes and priorities of the Project;
928 (ii) the requirements of Federal law and the Settlement; and (iii) the obligations of the United
929 States under existing contracts, or renewals thereof, providing for water deliveries from the
930 Project.

931 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
932 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for
933 the purposes of investigation, inspection, maintenance, repair, or replacement of any of the
934 Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor,
935 but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the

936 Contractor due notice in advance of such temporary discontinuance or reduction, except in case
937 of emergency, in which case no notice need be given; Provided, That the United States shall use
938 its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of
939 service after such reduction or discontinuance, and if requested by the Contractor, the United
940 States will, if possible, deliver the quantity of Project Water which would have been delivered
941 hereunder in the absence of such discontinuance or reduction.

942 (c) The United States reserves the right to all seepage and return flow water
943 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
944 beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for
945 the United States any right as seepage or return flow to water being used pursuant to this
946 Contract for surface irrigation or underground storage either being put to reasonable and
947 beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or
948 those claiming by, through, or under the Contractor. For purposes of this subdivision,
949 groundwater recharge, groundwater banking and all similar groundwater activities will be
950 deemed to be underground storage.

951 CONSTRAINTS ON THE AVAILABILITY OF WATER

952 13. (a) In its operation of the Project, the Contracting Officer will use all
953 reasonable means to guard against a Condition of Shortage in the quantity of water to be made
954 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
955 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
956 Contractor of said determination as soon as practicable.

957 (b) If there is a Condition of Shortage because of errors in physical operations
958 of the Project, drought, other physical causes beyond the control of the Contracting Officer or
959 actions taken by the Contracting Officer to meet legal obligations, including but not limited to
960 obligations pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of
961 this Contract, no liability shall accrue against the United States or any of its officers, agents, or
962 employees for any damage, direct or indirect, arising therefrom.

963 (c) The United States shall not execute contracts which together with this
964 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000
965 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That,
966 subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water
967 contracts shall not prohibit the United States from entering into temporary contracts of one year
968 or less in duration for delivery of Project Water to other entities if such water is not necessary to
969 meet the schedules as may be submitted by all Friant Division Project Contractors entitled to
970 receive Class 1 Water and/or Class 2 Water under their contracts. Nothing in this subdivision
971 shall limit the Contracting Officer's ability to take actions that result in the availability of new
972 water supplies to be used for Project purposes and allocating such new supplies; Provided, That
973 the Contracting Officer shall not take such actions until after consultation with the Friant
974 Division Project Contractors.

975 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to
976 this or any other contract heretofore or hereafter entered into any Year unless and until the
977 Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in

978 subdivision (c) of this Article of this Contract will be available for delivery in said Year. If the
979 Contracting Officer determines there is or will be a shortage in any Year in the quantity of
980 Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1
981 Water among all Contractors entitled to receive such water that will be made available at Friant
982 Dam in accordance with the following:

983 (1) A determination shall be made of the total quantity of Class 1
984 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the
985 amount so determined being herein referred to as the available supply.

986 (2) The total available Class 1 supply shall be divided by the Class 1
987 Water contractual commitments, the quotient thus obtained being herein referred to as the
988 Class 1 apportionment coefficient.

989 (3) The total quantity of Class 1 Water under Article 3 of this Contract
990 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of
991 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the
992 respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water
993 specified in subdivision (a) of Article 3 of this Contract.

994 (e) If the Contracting Officer determines there is less than the quantity of
995 Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3
996 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the
997 Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of

998 subdivision (d) of this Article of this Contract substituting the term “Class 2” for the term “Class
999 1.”

1000 (f) In the event that in any Year there is made available to the Contractor, by
1001 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article
1002 of this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of
1003 Article 12 of this Contract, less than the quantity of water which the Contractor otherwise would
1004 be entitled to receive hereunder, there shall be made an adjustment on account of the amounts
1005 already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water
1006 for said Year in accordance with Article 11 of this Contract.

1007 UNAVOIDABLE GROUNDWATER PERCOLATION

1008 14. To the extent applicable, the Contractor shall not be deemed to have delivered
1009 Irrigation Water to Excess Lands and Ineligible Lands within the meaning of this Contract if
1010 such lands are irrigated with groundwater that reaches the underground strata as an unavoidable
1011 result of the delivery of Irrigation Water by the Contractor to Eligible Lands.

1012 ACREAGE LIMITATION

1013 15. (a) Notwithstanding the application of the acreage limitation provisions to
1014 activities referred to in subdivision (b) of this Article, subdivision (a) of Article 16, and Article
1015 18 of this Contract, upon complete payment of the Repayment Obligation by the Contractor, and
1016 notwithstanding any Additional Capital Obligation that may later be established, the provisions
1017 of section 213(a) and (b) of the RRA shall apply to lands in the Contractor’s Service Area, with
1018 the effect that acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall

1019 no longer apply to lands in the Contractor's Service Area with respect to Water Delivered
1020 pursuant to this Contract. Upon receiving the complete payment of the Repayment Obligation
1021 from the Contractor, Reclamation will conduct a final water district review for the purpose of
1022 determining compliance with the acreage limitations, reporting, and Full Cost pricing provisions
1023 of the RRA from the date of the last water district review until the date when payment to
1024 Reclamation of the Repayment Obligation is completed.

1025 (b) Project Water to which the Contractor is entitled through a separate
1026 contract, other than this Contract, that is subject to Federal Reclamation law, may be delivered to
1027 lands within the Contractor's Service Area. Upon complete payment of the Repayment
1028 Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may
1029 later be established, Project Water Delivered under this Contract may be mixed with Project
1030 Water Delivered pursuant to a contract with the United States, other than this Contract, to which
1031 acreage limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation law
1032 apply without causing the application of the acreage limitations, reporting, and Full Cost pricing
1033 provisions of Federal Reclamation law to the Water Delivered pursuant to this Contract;
1034 Provided, The terms and conditions in such other contract shall continue to apply, and if such
1035 terms and conditions so require, the lands to receive Project Water under such other contract
1036 shall be properly designated by the Contractor and such Project Water is to be delivered in
1037 accordance with the RRA including any applicable acreage limitations, reporting, and Full Cost
1038 pricing provisions.

1039

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

1040 16. (a) The parties agree that the delivery of irrigation water or use of Federal
1041 facilities pursuant to this Contract is subject to Federal Reclamation law, including but not
1042 limited to the Reclamation Reform Act of 1982 (43 U.S.C. 390 aa *et seq.*), as amended and
1043 supplemented, and the rules and regulations promulgated by the Secretary of the Interior under
1044 Federal Reclamation law.

1045 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.

1046 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of
1047 the Settlement and the SJRRSA.

1048

PROTECTION OF WATER AND AIR QUALITY

1049 17. (a) Project facilities used to make available and deliver water to the
1050 Contractor shall be operated and maintained in the most practical manner to maintain the quality
1051 of the water at the highest level possible as determined by the Contracting Officer: *Provided,*
1052 *That* the United States does not warrant the quality of the water delivered to the Contractor and is
1053 under no obligation to furnish or construct water treatment facilities to maintain or improve the
1054 quality of water delivered to the Contractor.

1055 (b) The Contractor shall comply with all applicable water and air pollution
1056 laws and regulations of the United States and the State of California; and shall obtain all required
1057 permits or licenses from the appropriate Federal, State, or local authorities necessary for the
1058 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,
1059 State, and local water quality standards applicable to surface and subsurface drainage and/or
1060 discharges generated through the use of Federal or Contractor facilities or project water provided
1061 by the Contractor within the Contractor's Project Water Service Area.

1062 (c) This article shall not affect or alter any legal obligations of the Secretary
1063 to provide drainage or other discharge services.

1064

WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

1065

1066 18. (a) Until complete payment of the Repayment Obligation by the Contractor,
1067 and notwithstanding any Additional Capital Obligation that may later be established, water or
1068 water rights now owned or hereafter acquired by the Contractor other than from the United

1069 States and Irrigation Water furnished pursuant to the terms of this Contract may be
1070 simultaneously transported through the same distribution facilities of the Contractor subject to
1071 the following: (i) if the facilities utilized for commingling Irrigation Water and non-project
1072 water were constructed without funds made available pursuant to Federal Reclamation law, the
1073 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law will
1074 be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility
1075 of land to receive Irrigation Water must be established through the certification requirements as
1076 specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); and (iii) the water
1077 requirements of Eligible Lands within the Contractor's Service Area can be established and the
1078 quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to
1079 irrigate such Eligible Lands. The Contractor and the Contracting Officer acknowledge that the
1080 Contractor's distribution system that was constructed with funds made available pursuant to
1081 Federal Reclamation law was, prior to effective date of this Contract, repaid in full but title to the
1082 facilities has not been transferred to the Contractor. As such, when such facilities are utilized for
1083 commingling Irrigation Water and non-project water, the acreage limitation provisions of Federal
1084 Reclamation law will be applicable only to the Landholders of lands which receive Irrigation
1085 Water.

1086 (b) Upon complete payment of the Repayment Obligation by the Contractor,
1087 and notwithstanding any Additional Capital Obligation that may later be established, water or
1088 water rights now owned or hereafter acquired by the Contractor other than from the United
1089 States pursuant to this Contract and Irrigation Water furnished pursuant to the terms of this

1090 Contract may be simultaneously transported through the same distribution facilities of the
1091 Contractor without the payment of fees to the United States and without application of Federal
1092 Reclamation law to Water Delivered pursuant to this Contract or to lands which receive Water
1093 Delivered to Contractor pursuant to this Contract.

1094 (c) Water or water rights now owned or hereafter acquired by the Contractor,
1095 other than from the United States or adverse to the Project or its contractors (i.e., non-project
1096 water), may be stored, conveyed and/or diverted through Project facilities, other than Friant
1097 Division Facilities, subject to the completion of appropriate environmental documentation, with
1098 the approval of the Contracting Officer and the execution of any contract determined by the
1099 Contracting Officer to be necessary, consistent with the following provisions:

1100 (1) The Contractor may introduce non-project water into Project
1101 facilities and deliver said water to lands within the Contractor's Service Area, including
1102 Ineligible Lands, subject to payment to the United States and/or to any applicable Operating
1103 Non-Federal Entity of an appropriate rate as determined by the Contracting Officer. In addition,
1104 if electrical power is required to pump non-project water, the Contractor shall be responsible for
1105 obtaining the necessary power and paying the necessary charges therefor.

1106 (2) Delivery of such non-project water in and through Project facilities
1107 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
1108 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
1109 available to other Project Contractors; (iii) interfere with the delivery of contractual water
1110 entitlements to any other Project Contractors; (iv) interfere with the physical maintenance of the

1111 Project facilities; or (v) result in the United States incurring any liability or unreimbursed costs
1112 or expenses thereby.

1113 (3) Neither the United States nor the Operating Non-Federal Entity
1114 shall be responsible for control, care or distribution of the non-project water before it is
1115 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
1116 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and
1117 their respective officers, agents, and employees, from any claim for damage to persons or
1118 property, direct or indirect, resulting from Contractor's diversion or extraction of non-project
1119 water from any source.

1120 (4) Diversion of such non-project water into Project facilities shall be
1121 consistent with all applicable laws, and if involving groundwater, consistent with any
1122 groundwater management plan for the area from which it was extracted.

1123 (5) After Project purposes are met, as determined by the Contracting
1124 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
1125 of the facilities declared to be available by the Contracting Officer for conveyance and
1126 transportation of non-project water prior to any such remaining capacity being made available to
1127 non-project contractors.

1128 (d) Non-project water may be stored, conveyed and/or diverted through Friant
1129 Division Facilities, subject to the completion of appropriate environmental documentation and
1130 approval of the Contracting Officer without execution of a separate contract, consistent with

1131 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be
1132 appropriate by the Contracting Officer.

1133 OPINIONS AND DETERMINATIONS

1134 19. (a) Where the terms of this Contract provide for actions to be based upon the
1135 opinion or determination of either party to this Contract, said terms shall not be construed as
1136 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
1137 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
1138 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
1139 or unreasonable opinion or determination. Each opinion or determination by either party shall be
1140 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect
1141 or alter the standard of judicial review applicable under Federal law to any opinion or
1142 determination implementing a specific provision of Federal law embodied in statute or
1143 regulation.

1144 (b) The Contracting Officer shall have the right to make determinations
1145 necessary to administer this Contract that are consistent with the provisions of this Contract, the
1146 laws of the United States and the State of California, and the rules and regulations promulgated
1147 by the Secretary. Such determinations shall be made in consultation with the Contractor to the
1148 extent reasonably practicable.

1149 COORDINATION AND COOPERATION

1150 20. (a) In order to further their mutual goals and objectives, the Contracting
1151 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and

1152 with other affected Project Contractors, in order to improve the operation and management of the
1153 Project. The communication, coordination, and cooperation regarding operations and
1154 management shall include, but not limited to, any action which will or may materially affect the
1155 quantity or quality of Project Water supply, the allocation of Project Water supply, and Project
1156 financial matters including, but not limited to, budget issues. The communication, coordination,
1157 and cooperation provided for hereunder shall extend to all provisions of this Contract. Each
1158 party shall retain exclusive decision making authority for all actions, opinions, and
1159 determinations to be made by the respective party.

1160 (b) It is the intent of the Secretary to improve water supply reliability. To
1161 carry out this intent:

1162 (1) The Contracting Officer will, at the request of the Contractor,
1163 assist in the development of integrated resource management plans for the Contractor. Further,
1164 the Contracting Officer will, as appropriate, seek authorizations for implementation of
1165 partnerships to improve water supply, water quality, and reliability.

1166 (2) The Secretary will, as appropriate, pursue program and project
1167 implementation and authorization in coordination with Project Contractors to improve the water
1168 supply, water quality, and reliability of the Project for all Project purposes.

1169 (3) The Secretary will coordinate with Project Contractors and the
1170 State of California to seek improved water resource management.

1171 (4) The Secretary will coordinate actions of agencies within the
1172 Department of the Interior that may impact the availability of water for Project purposes.

1173 (5) The Contracting Officer shall periodically, but not less than
1174 annually, hold division level meetings to discuss Project operations, division level water
1175 management activities, and other issues as appropriate.

1176 (c) Without limiting the contractual obligations of the Contracting Officer
1177 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting
1178 Officer's ability to communicate, coordinate, and cooperate with the Contractor or other
1179 interested stakeholders or to make decisions in a timely fashion as needed to protect health,
1180 safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply
1181 with applicable laws.

1182 CHARGES FOR DELINQUENT PAYMENTS

1183 21. (a) The Contractor shall be subject to interest, administrative and penalty
1184 charges on delinquent installments or payments. When a payment is not received by the due
1185 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
1186 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
1187 administrative charge to cover additional costs of billing and processing the delinquent payment.
1188 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
1189 penalty charge of six (6) percent per year for each day the payment is delinquent beyond the due
1190 date. Further, the Contractor shall pay any fees incurred for debt collection services associated
1191 with a delinquent payment.

1192 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
1193 in the Federal Register by the Department of the Treasury for application to overdue payments,
1194 or the interest rate of one-half of one (0.5) percent per month prescribed by Section 6 of the
1195 Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be
1196 determined as of the due date and remain fixed for the duration of the delinquent period.

1197 (c) When a partial payment on a delinquent account is received, the amount
1198 received shall be applied, first to the penalty, second to the administrative charges, third to the
1199 accrued interest, and finally to the overdue payment.

EQUAL EMPLOYMENT OPPORTUNITY

1200

1201 22. During the performance of this Contract, the Contractor agrees as follows:

1202 (a) The Contractor will not discriminate against any employee or applicant for
1203 employment because of race, color, religion, sex, disability, or national origin. The Contractor
1204 will take affirmative action to ensure that applicants are employed, and that employees are
1205 treated during employment, without regard to their race, color, religion, sex, disability, or
1206 national origin. Such action shall include, but not be limited to the following: employment,
1207 upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination;
1208 rates of pay or other forms of compensation; and selection for training, including apprenticeship.
1209 The Contractor agrees to post in conspicuous places, available to employees and applicants for
1210 employment, notices to be provided by the Contracting Officer setting forth the provisions of this
1211 nondiscrimination clause.

1212 (b) The Contractor will, in all solicitations or advertisements for employees
1213 placed by or on behalf of the Contractor, state that all qualified applicants will receive
1214 consideration for employment without regard to race, color, religion, sex, disability, or national
1215 origin.

1216 (c) The Contractor will send to each labor union or representative of workers
1217 with which it has a collective bargaining agreement or other contract or understanding, a notice,
1218 to be provided by the Contracting Officer, advising the labor union or workers' representative of
1219 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
1220 1965, and shall post copies of the notice in conspicuous places available to employees and
1221 applicants for employment.

1222 (d) The Contractor will comply with all provisions of Executive Order No.
1223 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary
1224 of Labor.

1225 (e) The Contractor will furnish all information and reports required by
1226 Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the
1227 Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and
1228 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to
1229 ascertain compliance with such rules, regulations, and orders.

1230 (f) In the event of the Contractor's noncompliance with the nondiscrimination
1231 clauses of this contract or with any of such rules, regulations, or orders, this contract may be
1232 canceled, terminated or suspended in whole or in part and the Contractor may be declared
1233 ineligible for further Government contracts in accordance with procedures authorized in

1234 Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and
1235 remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule,
1236 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1237 (g) The Contractor will include the provisions of paragraphs (1) through (7) in
1238 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1239 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,
1240 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1241 will take such action with respect to any subcontract or purchase order as may be directed by the
1242 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1243 noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is
1244 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1245 Contractor may request the United States to enter into such litigation to protect the interests of
1246 the United States.

1247 GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

1248 23. (a) The obligation of the Contractor to pay the United States as provided in
1249 this Contract is a general obligation of the Contractor notwithstanding the manner in which the
1250 obligation may be distributed among the Contractor's water users and notwithstanding the
1251 default of individual water users in their obligations to the Contractor.

1252 (b) The payment of charges becoming due hereunder is a condition precedent
1253 to receiving benefits under this Contract. The United States shall not make water available to the
1254 Contractor through Project facilities during any period in which the Contractor may be in arrears
1255 in the advance payment of water rates due the United States. The Contractor shall not furnish
1256 water made available pursuant to this Contract for lands or parties which are in arrears in the
1257 advance payment of water rates levied or established by the Contractor.

1258 (c) With respect to subdivision (b) of this Article of this Contract, the
1259 Contractor shall have no obligation to require advance payment for water rates which it levies.

1260 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1261 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1262 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
1263 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
1264 laws, as well as with their respective implementing regulations and guidelines imposed by the
1265 U.S. Department of the Interior and/or Bureau of Reclamation.

1266 (b) These statutes require that no person in the United States shall, on the
1267 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1268 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1269 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1270 Contractor agrees to immediately take any measures necessary to implement this obligation,
1271 including permitting officials of the United States to inspect premises, programs, and documents.

1272 (c) The Contractor makes this agreement in consideration of and for the
1273 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1274 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1275 Reclamation, including installment payments after such date on account of arrangements for
1276 Federal financial assistance which were approved before such date. The Contractor recognizes
1277 and agrees that such Federal assistance will be extended in reliance on the representations and
1278 agreements made in this Article, and that the United States reserves the right to seek judicial
1279 enforcement thereof.

1280 PRIVACY ACT COMPLIANCE

1281 25. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
1282 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
1283 seq.) in maintaining Landholder acreage certification and reporting records, required to be
1284 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation
1285 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

1286 (b) With respect to the application and administration of the criminal penalty
1287 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees
1288 responsible for maintaining the certification and reporting records referenced in (a) above are
1289 considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

1290 (c) The Contracting Officer or a designated representative shall provide the
1291 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
1292 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage
1293 Limitation—Interior, Reclamation-31) which govern the maintenance, safeguarding, and
1294 disclosure of information contained in the Landholder's certification and reporting records.

1295 (d) The Contracting Officer shall designate a full-time employee of the
1296 Bureau of Reclamation to be the System Manager who shall be responsible for making decisions
1297 on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The
1298 Contractor is authorized to grant requests by individuals for access to their own records.

1299 (e) The Contractor shall forward promptly to the System Manager each
1300 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed
1301 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System
1302 Manager with information and records necessary to prepare an appropriate response to the
1303 requester. These requirements do not apply to individuals seeking access to their own
1304 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18, unless the
1305 requester elects to cite the Privacy Act as a basis for the request.

1306 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1307 26. In addition to all other payments to be made by the Contractor pursuant to this
1308 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a
1309 bill and detailed statement submitted by the Contracting Officer to the Contractor for such
1310 specific items of direct cost incurred by the United States for work requested by the Contractor
1311 associated with this Contract plus indirect costs in accordance with applicable Bureau of
1312 Reclamation policies and procedures. All such amounts referred to in this Article of this
1313 Contract shall not exceed the amount agreed to in writing in advance by the Contractor. This
1314 Article of this Contract shall not apply to costs for routine contract administration.

1315 WATER CONSERVATION

1316 27. (a) Prior to the delivery of water provided from or conveyed through
1317 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
1318 shall be implementing an effective water conservation and efficiency program based on the
1319 Contractor's water conservation plan that has been determined by the Contracting Officer to
1320 meet the conservation and efficiency criteria for evaluating water conservation plans established
1321 under Federal law. The water conservation and efficiency program shall contain definite water
1322 conservation objectives, appropriate economically feasible water conservation measures, and

1323 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1324 Contract shall be contingent upon the Contractor's continued implementation of such water
1325 conservation program. In the event the Contractor's water conservation plan or any revised
1326 water conservation plan completed pursuant to subdivision (d) of this Article of this Contract
1327 have not yet been determined by the Contracting Officer to meet such criteria, due to
1328 circumstances which the Contracting Officer determines are beyond the control of the
1329 Contractor, water deliveries shall be made under this Contract so long as the Contractor
1330 diligently works with the Contracting Officer to obtain such determination at the earliest
1331 practicable date, and thereafter the Contractor immediately begins implementing its water
1332 conservation and efficiency program in accordance with the time schedules therein.

1333 (b) Should the amount of M&I Water Delivered pursuant to subdivision (a) of
1334 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the
1335 Contractor shall implement the Best Management Practices identified by the time frames issued
1336 by the California Urban Water Conservation Council for such M&I Water unless any such
1337 practice is determined by the Contracting Officer to be inappropriate for the Contractor.

1338 (c) The Contractor shall submit to the Contracting Officer a report on the
1339 status of its implementation of the water conservation plan on the reporting dates specified in the
1340 then-existing conservation and efficiency criteria established under Federal law.

1341 (d) At five (5) -year intervals, the Contractor shall revise its water
1342 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1343 water conservation plans established under Federal law and submit such revised water

1344 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1345 will then determine if the water conservation plan meets Reclamation's then-existing
1346 conservation and efficiency criteria for evaluating water conservation plans established under
1347 Federal law.

1348 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1349 shall be described in the Contractor's water conservation plan.

1350 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1351 28. Except as specifically provided in Article 18 of this Contract, the provisions of
1352 this Contract shall not be applicable to or affect non-project Water or water rights now owned or
1353 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1354 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1355 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1356 any water user within the Contractor's Service Area acquires or has available under any other
1357 contract pursuant to Federal Reclamation law.

1358 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1359 29. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1360 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1361 Operating Non-Federal Entity by separate agreement between the United States and the
1362 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the
1363 rights or obligations of the Contractor or the United States hereunder.

1364 (b) The Contracting Officer has previously notified the Contractor in writing
1365 that the O&M of a portion of the Project facilities which serve the Contractor has been
1366 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1367 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer
1368 under the terms and conditions of the separate agreement between the United States and the
1369 Operating Non-Federal Entity described in subdivision (a) of this Article of this Contract, all
1370 rates, charges or assessments of any kind, including any assessment for reserve funds, which the
1371 Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the O&M
1372 of the portion of the Project facilities operated and maintained by the Operating Non-Federal
1373 Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and
1374 replacement costs for physical works and appurtenances associated with the Tracy Pumping
1375 Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the
1376 O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance
1377 and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity
1378 or such successor shall not relieve the Contractor of its obligation to pay directly to the United
1379 States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Components
1380 except to the extent the Operating Non-Federal Entity collects payments on behalf of the United
1381 States in accordance with the separate agreement identified in subdivision (a) of this Article of
1382 this Contract.

1383 (c) For so long as the O&M of any portion of the Project facilities serving the
1384 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the

1385 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1386 Contract representing the cost associated with the activity being performed by the Operating
1387 Non-Federal Entity or its successor.

1388 (d) In the event the O&M of the Project facilities operated and maintained by
1389 the Operating Non-Federal Entity is re-assumed by the United States during the term of this
1390 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the
1391 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1392 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1393 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
1394 absence of written notification from the Contracting Officer to the contrary, pay the Rates,
1395 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the
1396 United States in compliance with Article 7 of this Contract.

1397 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1398 30. The expenditure or advance of any money or the performance of any obligation of
1399 the United States under this Contract shall be contingent upon appropriation or allotment of
1400 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1401 obligations under this Contract. No liability shall accrue to the United States in case funds are
1402 not appropriated or allotted.

1403 BOOKS, RECORDS, AND REPORTS

1404 31. (a) The Contractor shall establish and maintain accounts and other books and
1405 records pertaining to administration of the terms and conditions of this Contract, including: the
1406 Contractor's financial transactions, water supply data, and Project land and right-of-way
1407 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1408 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1409 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1410 Officer may require. Subject to applicable Federal laws and regulations, each party to this

1411 Contract shall have the right during office hours to examine and make copies of the other party's
1412 books and records relating to matters covered by this Contract.

1413 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1414 Contract, no books, records, or other information shall be requested from the Contractor by the
1415 Contracting Officer unless such books, records, or information are reasonably related to the
1416 administration or performance of this Contract. Any such request shall allow the Contractor a
1417 reasonable period of time within which to provide the requested books, records, or information.

1418 (c) At such time as the Contractor provides information to the Contracting
1419 Officer pursuant to subdivision (a) of this Article of this Contract, a copy of such information
1420 shall be provided to the Operating Non-Federal Entity.

1421 ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

1422 32. (a) The provisions of this Contract shall apply to and bind the successors and
1423 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1424 therein shall be valid until approved in writing by the Contracting Officer.

1425 (b) The assignment of any right or interest in this Contract by either party
1426 shall not interfere with the rights or obligations of the other party to this Contract absent the
1427 written concurrence of said other party.

1428 (c) The Contracting Officer shall not unreasonably condition or withhold
1429 approval of any proposed assignment.

1430 SEVERABILITY

1431 33. In the event that a person or entity who is neither (i) a party to a Project contract,
1432 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor

1433 (iii) an association or other form of organization whose primary function is to represent parties to
1434 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1435 enforceability of a provision included in this Contract and said person, entity, association, or
1436 organization obtains a final court decision holding that such provision is legally invalid or
1437 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1438 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of
1439 such final court decision identify by mutual agreement the provisions in this Contract which
1440 must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate
1441 revision(s). The time periods specified above may be extended by mutual agreement of the
1442 parties. Pending the completion of the actions designated above, to the extent it can do so
1443 without violating any applicable provisions of law, the United States shall continue to make the
1444 quantities of Project Water specified in this Contract available to the Contractor pursuant to the
1445 provisions of this Contract which were not found to be legally invalid or unenforceable in the
1446 final court decision.

1447 RESOLUTION OF DISPUTES

1448 34. Should any dispute arise concerning any provisions of this Contract, or the
1449 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1450 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1451 Officer referring any matter to Department of Justice, the party shall provide to the other party
1452 thirty (30) days written notice of the intent to take such action; Provided, That such notice shall
1453 not be required where a delay in commencing an action would prejudice the interests of the party

1454 that intends to file suit. During the thirty (30) day notice period, the Contractor and the
1455 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
1456 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the
1457 Contractor or the United States may have.

1458 OFFICIALS NOT TO BENEFIT

1459 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1460 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1461 manner as other water users or landowners.

1462 CHANGES IN CONTRACTOR'S SERVICE AREA

1463 36. (a) While this Contract is in effect, no change may be made in the
1464 Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution,
1465 consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

1466 (b) Within thirty (30) days of receipt of a request for such a change, the
1467 Contracting Officer will notify the Contractor of any additional information required by the
1468 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1469 agreeable schedule for timely completion of the process. Such process will analyze whether the
1470 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1471 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1472 Contract or to pay for any Federally-constructed facilities for which the Contractor is
1473 responsible; and (iii) have an impact on any Project Water rights applications, permits, or
1474 licenses. In addition, the Contracting Officer shall comply with the National Environmental
1475 Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs

1476 incurred by the Contracting Officer in this process, and such costs will be paid in accordance
1477 with Article 26 of this Contract.

1478 FEDERAL LAWS

1479 37. By entering into this Contract, the Contractor does not waive its rights to contest
1480 the validity or application in connection with the performance of the terms and conditions of this
1481 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1482 the terms and conditions of this Contract unless and until relief from application of such Federal
1483 law or regulation to the implementing provision of the Contract is granted by a court of
1484 competent jurisdiction.

1485 EMERGENCY RESERVE FUND

1486 38. The Contractor and Contracting Officer acknowledge that the requirements to
1487 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1488 Friant Division Facilities is and will continue to be administered under Contract No.
1489 8-07-20-X0356 titled Agreement To Transfer The Operation, Maintenance And Replacement
1490 And Certain Financial And Administrative Activities Related To The Friant-Kern Canal And
1491 Associated Works, dated March 1, 1998 as amended, supplemented, assigned, or renewed.

1492 MEDIUM FOR TRANSMITTING PAYMENT

1493 39. (a) All payments from the Contractor to the United States under this contract
1494 shall be by the medium requested by the United States on or before the date payment is due. The
1495 required method of payment may include checks, wire transfers, or other types of payment
1496 specified by the United States.

1497 (b) Upon execution of the contract, the Contractor shall furnish the
1498 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose

1499 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1500 out of the Contractor's relationship with the United States.

1501 NOTICES

1502 40. Any notice, demand, or request authorized or required by this Contract shall be
1503 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1504 delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno,
1505 California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered
1506 to the Board of Directors of Southern San Joaquin Municipal Utility District, P.O. Box 279,
1507 Delano, California 93215. The designation of the addressee or the address may be changed by
1508 notice given in the same manner as provided in this Article of this Contract for other notices.

1509 CONFIRMATION OF CONTRACT

1510 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1511 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1512 confirming the execution of this Contract. The Contractor shall furnish the United States a
1513 certified copy of the final decree, the validation proceedings, and all pertinent supporting records
1514 of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful,
1515 valid, and binding on the Contractor.

1516 CONTRACT DRAFTING CONSIDERATIONS

1517 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1518 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1519 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1520 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the
1521 parties hereto, each of whom is sophisticated in the matters to which this Contract pertains, and
1522 no one party shall be considered to have drafted the stated Articles.

1523 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day
1524 and year first above written.

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY
James E. Turner
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

THE UNITED STATES OF AMERICA

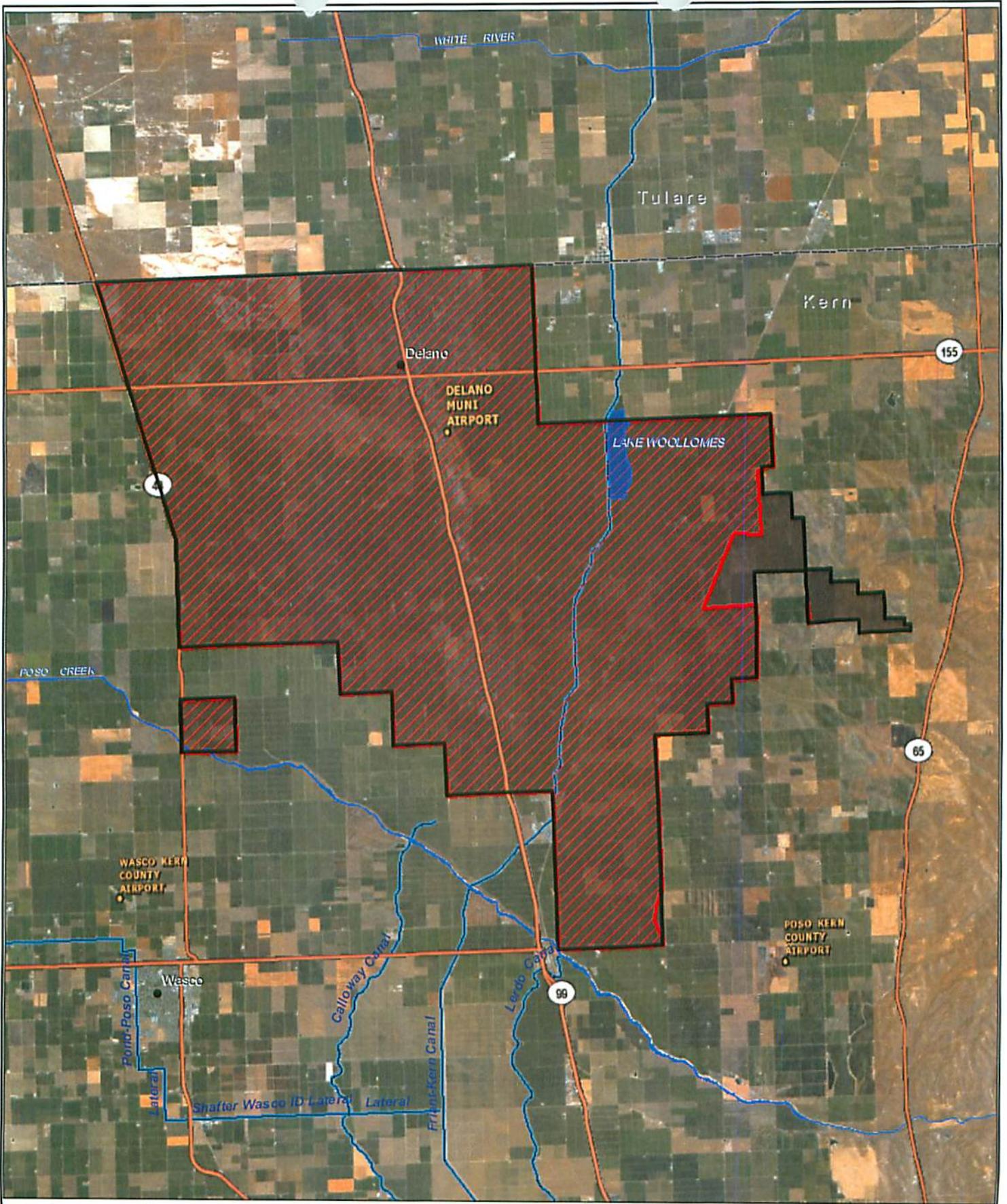
By: *Donald R. [Signature]*
Regional Director, Mid-Pacific Region
Bureau of Reclamation

SOUTHERN SAN JOAQUIN
MUNICIPAL UTILITY DISTRICT

By: *[Signature]*
President, Board of Directors

Attest:

By: *William R. Carls*
Secretary



-  District Boundary
-  Contractor's Service Area (Irrigation Only)
-  Contractor's Service Area (Irrigation and M&I)

Southern San Joaquin M.U.D.

Contract No. I1r-1460D

Exhibit A

Friant 9 (d) Repayment

Date: September 2, 2010
 File Name: N:\D:\stnds\contracts\Friant_9(d)\Contracts\SSSanJoaquin MUD.mxd



1785-202-75

EXHIBIT B

Rates and Charges

This is a placeholder page. The Rates and Charges will be transmitted to the Contractor at a later date.

Exhibit C-1
 Repayment Obligation - Lump Sum Option

Friant Contractor:
San Joaquin River Restoration Act

So. San Joaquin MUD

Existing Capital Obligation (Article 1(m)) \$ **25,159,018.30**

Irrigation portion of Existing Capital Obligation \$ **25,159,018.30**

20yr CMT as of : **10/01/10** **3.400%**

Discount Rate (1/2 20yr CMT) **1.700%**

Discounted Irrigation Capital \$ **21,177,438.76**

**Non-Discounted M&I Portion of
 Existing Capital Obligation**

\$ **-**

Repayment Obligation - Lump Sum Option (per Article 7(a)(2)(A) \$ 21,177,438.76		
Year	Irrigation Portion of Allocated Capital Cost	
	Beginning Balance	Straight Line Repayment
2011	\$ 25,159,018	\$ 1,257,951
2012	\$ 23,901,067	\$ 1,257,951
2013	\$ 22,643,116	\$ 1,257,951
2014	\$ 21,385,166	\$ 1,257,951
2015	\$ 20,127,215	\$ 1,257,951
2016	\$ 18,869,264	\$ 1,257,951
2017	\$ 17,611,313	\$ 1,257,951
2018	\$ 16,353,362	\$ 1,257,951
2019	\$ 15,095,411	\$ 1,257,951
2020	\$ 13,837,460	\$ 1,257,951
2021	\$ 12,579,509	\$ 1,257,951
2022	\$ 11,321,558	\$ 1,257,951
2023	\$ 10,063,607	\$ 1,257,951
2024	\$ 8,805,656	\$ 1,257,951
2025	\$ 7,547,705	\$ 1,257,951
2026	\$ 6,289,755	\$ 1,257,951
2027	\$ 5,031,804	\$ 1,257,951
2028	\$ 3,773,853	\$ 1,257,951
2029	\$ 2,515,902	\$ 1,257,951
2030	\$ 1,257,951	\$ 1,257,951
	\$	25,159,018

Exhibit C-2
Repayment Obligation - Installment Payment Option

Contractor: So. San Joaquin MUD

Existing Capital Obligation (Article 1(m)) \$ **25,159,018.30**

Irrigation Portion of Existing Capital Obligation \$ **25,159,018.30**

20yr CMT - 10/1/2010 **3.400%**
Discount Rate (1/2 20yr CMT) **1.700%**

Non-Discounted M&I Existing Capital Obligation \$ **-**

Installment Schedule

	Payment Due Date	Irrigation Portion of Repayment Obligation	Non-discounted M&I Portion of Existing Capital Obligation	Repayment Obligation
1st Installment	5/1/2011	\$ 5,424,431.48	\$ -	\$ 5,424,431.48
2nd Installment	5/1/2012	\$ 5,423,612.03	\$ -	\$ 5,423,612.03
3rd Installment	5/1/2013	\$ 5,429,181.10	\$ -	\$ 5,429,181.10
4th Installment	1/31/2014	\$ 5,439,086.46	\$ -	\$ 5,439,086.46

Total Repayment Obligation - Installment Option (per Article 7(a)(2)(A)) \$ **21,716,311.07** \$ **-** \$ **21,716,311.07**

Year	Irrigation Portion of Allocated Capital Cost		Discounted Capital Amount			
	Beginning Balance	Straight Line Repayment	\$5,424,431.48	\$5,423,612.03	\$5,429,181.10	\$5,439,086.46
2011	\$ 25,159,018	\$ 1,257,951	\$ 1,257,951			
2012	\$ 23,901,067	\$ 1,257,951	\$ 264,170	\$ 993,781		
2013	\$ 22,643,116	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 700,050	
2014	\$ 21,385,166	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2015	\$ 20,127,215	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2016	\$ 18,869,264	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2017	\$ 17,611,313	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2018	\$ 16,353,362	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2019	\$ 15,095,411	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2020	\$ 13,837,460	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2021	\$ 12,579,509	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2022	\$ 11,321,558	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2023	\$ 10,063,607	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2024	\$ 8,805,656	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2025	\$ 7,547,705	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2026	\$ 6,289,755	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2027	\$ 5,031,804	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2028	\$ 3,773,853	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2029	\$ 2,515,902	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
2030	\$ 1,257,951	\$ 1,257,951	\$ 264,170	\$ 293,732	\$ 328,954	\$ 371,096
	\$ 25,159,018	\$ 6,277,175	\$ 6,280,949	\$ 6,292,270	\$ 6,308,624	

Exhibit D
Friant Surcharge Reduction Calculation

Friant Contractor:
San Joaquin River Restoration Act

So. San Joaquin MUD

Average Annual Delivery - Forecasted for 2020-2039*	89,450
Total Projected deliveries (over 20 yr period)**	
Article 7(c)	1,789,000
20 yr CMT as of 10/1/2010	3.400%
1/2 20 yr CMT as of 10/1/2010	1.700%
Irrigation Portion of Existing Capital Obligation	\$25,159,018
NPV at Half CMT (Repayment Obligation)	\$21,177,439
NPV at Full CMT	\$18,041,365
Financing Cost Offset: (Article 7(c)(1))	\$3,136,074
NPV of FS Reduction	\$2,848,541
Difference between Financing Cost Offset and NPV of FS Reduction	\$287,533
2020 Other Obligation Credit (FV of difference) (Art. 7(c)(2))	\$388,484

Year	Irrigation portion of Allocated Capital Cost		CVPIA Friant	Reduction in Friant Surcharge			
	Beginning Balance	Straight Line Repayment	Surcharge per Acre-Foot Before Reduction	Friant Surcharge Reduction per Article c(1)	Friant Surcharge due per A/F after Reduction	Projected Total Annual Credit	2020 Other Obligation Credit Calculation (Art. 7(c)(2))
2011	\$ 25,159,018	\$ 1,257,951	\$7.00		\$7.00	0	\$ 287,533.44
2012	\$ 23,901,067	\$ 1,257,951	\$7.00		\$7.00	0	\$ 297,309.57
2013	\$ 22,643,116	\$ 1,257,951	\$7.00		\$7.00	0	\$ 307,418.10
2014	\$ 21,385,166	\$ 1,257,951	\$7.00		\$7.00	0	\$ 317,870.31
2015	\$ 20,127,215	\$ 1,257,951	\$7.00		\$7.00	0	\$ 328,677.90
2016	\$ 18,869,264	\$ 1,257,951	\$7.00		\$7.00	0	\$ 339,852.95
2017	\$ 17,611,313	\$ 1,257,951	\$7.00		\$7.00	0	\$ 351,407.95
2018	\$ 16,353,362	\$ 1,257,951	\$7.00		\$7.00	0	\$ 363,355.82
2019	\$ 15,095,411	\$ 1,257,951	\$7.00		\$7.00	0	\$ 375,709.92
2020	\$ 13,837,460	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(\$268,350)	\$ 388,484.06
2021	\$ 12,579,509	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2022	\$ 11,321,558	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2023	\$ 10,063,607	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2024	\$ 8,805,656	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2025	\$ 7,547,705	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2026	\$ 6,289,755	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2027	\$ 5,031,804	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2028	\$ 3,773,853	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2029	\$ 2,515,902	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2030	\$ 1,257,951	\$ 1,257,951	\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2031			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2032			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2033			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2034			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2035			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2036			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2037			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2038			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
2039			\$7.00	(\$3.00)	\$ 4.00	(268,350)	
	\$ 25,159,018					(\$5,367,000)	

Exhibit D

Friant Surcharge Reduction Calculation

Footnotes

* Average annual delivery forecast indicated above is a mutually agreed upon estimate of deliveries during the period 2020-2039 for purposes of calculating the Friant Surcharge reduction and related credits only.

** This figure represents the total cumulative deliveries the reduced surcharge is applicable to, but not beyond 2039. If cumulative actual deliveries exceed this amount prior to 2039, the full Friant Surcharge is applicable to deliveries in excess of this amount.

*** The difference represents the amount of financing costs that are not offset through the reduced Friant Surcharge computed on this schedule. Pursuant to Section 7(c)(2), this amount shall offset the Contractor's other outstanding or future obligations. After 2020, the contractor's other obligations shall be reduced in the following order to fully offset this amount: 1) Payments or prepayments due for O&M expenses and, to the extent applicable, 2) Additional Capital Obligation.

@ Amount of reduction in Friant Surcharge is computed using FPV of Financing Costs adjusted to Yr 2020. Annual Friant Surcharge reduction to fully offset Financing costs is computed and presented on per a/f basis. Friant surcharge may be reduced up to \$3 per a/f.

Friant Surcharge (FS) Reduction Calculations

FV of Total Financing Cost for Offset	\$	4,381,186
Annual Credit Target	\$	(295,437)
FS Reduction w/o limit	\$	(3.30)
FS Reduction limit	\$	(3.00)

EXHIBIT E

Restated Contract¹

Irrigation and M&I
Contract No. I1r-1460D

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
SOUTHERN SAN JOAQUIN MUNICIPAL UTILITY DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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¹ Pursuant to subdivision (b) of Article 2 of the Contract to which this exhibit is attached, this Exhibit "E" makes no substantive revisions to the Contract to which it is attached and is prepared solely as a matter of administrative convenience. In this Exhibit "E", references to "Contract" or "this Contract" refers to this Restated Contract.

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1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 SOUTHERN SAN JOAQUIN MUNICIPAL UTILITY DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION AND
10 FACILITIES REPAYMENT

11 THIS CONTRACT, made this 24th day of November, 2010, is entered
12 into pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary
13 thereto, including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70
15 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100
16 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title
17 X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin
18 River Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter
19 referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
20 hereinafter referred to as the United States and SOUTHERN SAN JOAQUIN MUNICIPAL
21 UTILITY DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of
22 California, duly organized, existing, and acting pursuant to the laws thereof, with its principal
23 place of business in California;

24 WITNESSETH, That

EXPLANATORY RECITALS

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[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3rd] WHEREAS, the United States and the Contractor entered into Contract Number I1r-1460, as amended, which established terms for the delivery to the Contractor of Project Water from the Friant Division from October 18, 1945 through February 28, 1991; and

[4th] WHEREAS, the Contractor and the United States have entered into a renewal contract and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into an interim renewal contract(s), identified as Contract Number (s) I1r-1460R and I1r-1460-IR1, which provided for the continued water service to Contractor from March 1, 1991 through February 28, 2001, and subsequently entered into a long-term renewal contract identified as Contract Number I1r-1460-LTR1, which provided for

45 continued water service to Contractor through February 28, 2026, which was amended January
46 18, 2007, and is herein referred to as the “Existing Contract”; and

47 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
48 United States has acquired water rights and other rights to the flows of the San Joaquin River,
49 including without limitation the permits issued as the result of Decision 935 by the California
50 State Water Resource Control Board and the contracts described in subdivision (n) of Article 3
51 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers
52 Project Water stored or flowing through Millerton Lake in accordance with State and Federal law
53 for the benefit of Project Contractors in the Friant Division and for other specified Project
54 purposes; and

55 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is
56 Project Water developed through the exercise of the rights described in the fifth (5th) Explanatory
57 Recital of this Contract; and

58 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council,
59 et al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant
60 Division entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”),
61 which settlement prescribes a Restoration Goal and a Water Management Goal and which
62 Settlement was subsequently confirmed and implemented through the SJRRSA; and

63 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the
64 Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August
65 4, 1939, no later than December 31, 2010, and further directs that such contract shall require the

66 accelerated repayment of the Contractor's allocated share of construction costs, either as a lump
67 sum payment by January 31, 2011 or in annual installments by January 31, 2014, which funds
68 will in turn be made available for implementation of the Settlement and SJRRSA, and which
69 costs otherwise would have been payable through annual water rates, with full repayment by
70 2030; and

71 [9th] WHEREAS, such repayment of costs will assist the United States with
72 implementation of actions required under the Settlement and the SJRRSA and provide the
73 Contractor the benefits provided in Section 10010 of the SJRRSA; and

74 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act)
75 directs the Secretary to provide that the other party to any contract entered into pursuant to
76 subsection (d) of Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to
77 subsection (e) of Section 9 of the Act of August 4, 1939 (water service contract) shall "have the
78 first right (to which the rights of the holders of any other type of irrigation water contract shall be
79 subordinate) to a stated share or quantity of the project's available water supply for beneficial
80 use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right
81 to such share or quantity upon completion of payment of the amount assigned for ultimate
82 return" by the contractor subject to fulfillment of all obligations under the contract; and

83 [11th] WHEREAS, among other things, this Contract includes provisions granting the
84 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

85 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
86 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for

87 reasonable and beneficial use and/or has demonstrated projected future demand for water use
88 such that the Contractor has the capability and expects to utilize fully for reasonable and
89 beneficial use the quantity of Project Water to be made available to it pursuant to this Contract;
90 and

91 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon
92 by urban and agricultural areas within California for more than fifty (50) years and is considered
93 by the Contractor as an essential portion of its water supply; and

94 [14th] WHEREAS, the economies of regions within the Central Valley Project,
95 including the Contractor's, depend upon the continued availability of water, including water
96 service from the Central Valley Project; and

97 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and
98 partnerships to pursue measures to improve water supply, water quality, and reliability of the
99 Project for all Project purposes; and

100 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
101 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
102 repayment of the Central Valley Project as required by law; to guard reasonably against Project
103 Water shortages; to achieve a reasonable balance among competing demands for use of Project
104 Water; and to comply with all applicable environmental statutes, all consistent with the legal
105 obligations of the United States relative to the Central Valley Project; and

106 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a
107 need exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to

108 meet flood control criteria (currently referred to as “uncontrolled season”), taking into
109 consideration, among other things, anticipated upstream reservoir operations and the most
110 probable forecast of snowmelt and runoff projections for the upper San Joaquin River, Friant
111 Division Project Contractors utilize a portion of their undependable Class 2 Water in their
112 service areas to, among other things, assist in the management and alleviation of groundwater
113 overdraft in the Friant Division service area, provide opportunities for restoration of the San
114 Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage
115 optimal water management, and maximize the reasonable and beneficial use of the water; and

116 [18th] WHEREAS, the parties desire and intend that this Contract not provide a
117 disincentive to the Friant Division Project Contractors continuing to carry out the beneficial
118 activities set out in the Explanatory Recital immediately above; and

119 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all
120 of its obligations under the Existing Contract.

121 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
122 contained, it is hereby mutually agreed by the parties hereto as follows:

123 DEFINITIONS

124 1. When used herein, unless otherwise distinctly expressed or manifestly
125 incompatible with the intent of the parties as expressed in this Contract, the term:

126 (a) “Additional Capital Obligation” shall mean any additional construction
127 costs or other capitalized costs incurred after the effective date of this Contract or not reflected in
128 the Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any

129 amounts payable by Contractor as determined through the final adjustment described and
130 required by Section 10010(b) of the SJRRSA;

131 (b) "Calendar Year" shall mean the period January 1 through December 31,
132 both dates inclusive;

133 (c) "Charges" shall mean the payments required by Federal Reclamation law
134 in addition to the Rates specified in this Contract as determined annually by the Contracting
135 Officer pursuant to this Contract and consistent with the SJRRSA;

136 (d) "Class 1 Water" shall mean that supply of water stored in or flowing
137 through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3,
138 12, and 13 of this Contract, will be available for delivery from Millerton Lake and the
139 Friant-Kern and Madera Canals as a dependable water supply during each Year;

140 (e) "Class 2 Water" shall mean that supply of water which can be made
141 available subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this
142 Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to
143 the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence,
144 such water will be undependable in character and will be furnished only if, as, and when it can be
145 made available as determined by the Contracting Officer;

146 (f) "Condition of Shortage" shall mean a condition respecting the Project
147 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the
148 Contract Total;

149 (g) "Contracting Officer" shall mean the Secretary of the Interior's duly
150 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law
151 or regulation;

152 (h) "Contract Total" shall mean the maximum amount of Class 1 Water plus
153 the maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract
154 and is the stated share or quantity of the Project's available water supply to which the Contractor
155 has a permanent right in accordance with the 1956 Act and the terms of this Contract, due to the
156 Contractor's complete payment of the Repayment Obligation, notwithstanding any Additional
157 Capital Obligation that may later be established, which right shall not be disturbed so long as the
158 Contractor fulfills all of its obligations under this Contract;

159 (i) "Contractor's Service Area" shall mean the area to which the Contractor is
160 permitted to provide Project Water under this Contract as described in Exhibit "A" attached
161 hereto, which may be modified from time to time in accordance with Article 36 of this Contract
162 without amendment of this Contract;

163 (j) "CVPIA" shall mean the Central Valley Project Improvement Act, Title
164 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

165 (k) Omitted;

166 (l) Omitted;

167 (m) "Existing Capital Obligation" shall mean the remaining amount of
168 construction costs of the Contractor identified in the Central Valley Project Irrigation Water
169 Rates and/or Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as

170 adjusted to reflect payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A)
171 of the SJRRSA. The Contracting Officer has computed the Existing Capital Obligation in a
172 manner consistent with the SJRRSA and such amount is set forth in Exhibits "C-1" and "C-2",
173 incorporated herein by reference;

174 (n) "Financing Costs", for purposes of computing the reduction of certain
175 charges as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference
176 between the net present value of the Existing Capital Obligation discounted using the full
177 Treasury rate and the Existing Capital Obligation discounted using one-half the Treasury rate, as
178 set forth in Section 10010(d)(3) of the SJRRRA;

179 (o) Omitted;

180 (p) Omitted;

181 (q) Omitted;

182 (r) "Irrigation Water" shall mean water made available from the Project that
183 is used primarily in the production of agricultural crops or livestock, including domestic use
184 incidental thereto, and watering of livestock;

185 (s) Omitted;

186 (t) "Long Term Historic Average" shall mean the average of the final forecast
187 of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced
188 in the third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

189 (u) "Municipal and Industrial (M&I) Water" shall mean Water Made
190 Available from the Project other than Irrigation Water made available to the Contractor. M&I

191 Water shall include water used for human use and purposes such as the watering of landscaping
192 or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to
193 land holdings operated in units of less than five (5) acres unless the Contractor establishes to the
194 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a
195 use described in subdivision (r) of this Article of this Contract;

196 (v) Omitted;

197 (w) "Operation and Maintenance" or "O&M" shall mean normal and
198 reasonable care, control, operation, repair, replacement (other than Capital replacement), and
199 maintenance of Project facilities;

200 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or
201 its successor, a Non-Federal entity, which has the obligation to operate and maintain all or a
202 portion of the Friant Division Facilities pursuant to an agreement with the United States and
203 which may have funding obligations with respect thereto;

204 (y) Omitted;

205 (z) "Project" shall mean the Central Valley Project owned by the United
206 States and managed by the Department of the Interior, Bureau of Reclamation;

207 (aa) "Project Contractors" shall mean all parties who have a long-term water
208 service contract or repayment contract for Project Water from the Project with the United States
209 pursuant to Federal Reclamation law;

210 (bb) "Project Water" shall mean all water that is developed, diverted, stored, or
211 delivered by the Secretary in accordance with the statutes authorizing the Project and in
212 accordance with the terms and conditions of water rights acquired pursuant to California law;

213 (cc) "Rates" shall mean the payments for O&M costs as determined annually
214 by the Contracting Officer in accordance with the then-existing applicable water ratesetting
215 policies for the Project, as described in subdivision (a) of Article 7 of this Contract and
216 illustrated in Exhibit "B", attached hereto;

217 (dd) "Recovered Water Account" shall mean the program, as defined in the
218 Settlement, to make water available to all of the Friant Division Project Contractors who provide
219 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the
220 impact of the interim flows and restoration flows on such contractors;

221 (ee) "Repayment Obligation", as provided in subdivision (a)(2)(A) of Article 7
222 of this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by
223 one-half of the Treasury rate and computed consistent with the provisions of Section
224 10010(a)(3)(A) of the SJRRSA to be paid as either a lump sum payment by January 31, 2011 or
225 in approximately equal annual installments by January 31, 2014;

226 (ff) "Secretary" shall mean the Secretary of the Interior, a duly appointed
227 successor, or an authorized representative acting pursuant to any authority of the Secretary and
228 through any agency of the Department of the Interior;

229 (gg) "Settlement" shall mean the Stipulation of Settlement dated September 13,
230 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued

231 by the Court pursuant to the terms and conditions of the Settlement in Natural Resources
232 Defense Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

233 (hh) Omitted;

234 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water
235 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
236 Officer;

237 (jj) "Water Made Available" shall mean the estimated amount of Project
238 Water that can be delivered to the Contractor for the upcoming Year as declared by the
239 Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

240 (kk) "Water Management Goal" shall mean the goal of the Settlement to
241 reduce or avoid adverse water supply impacts to all the Friant Division Project Contractors that
242 may result from the interim flows and restoration flows provided for in the Settlement;

243 (ll) "Water Scheduled" shall mean Project Water made available to the
244 Contractor for which times and quantities for delivery have been established by the Contractor
245 and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

246 (mm) "Year" shall mean the period from and including March 1 of each
247 Calendar Year through the last day of February of the following Calendar Year.

248 EFFECTIVE DATE OF CONTRACT

249 2. (a) This Contract shall become effective on the date first hereinabove written
250 and shall continue so long as the Contractor is making the annual payments required herein and
251 paying any other amounts owing under this Contract and applicable law, unless it is terminated

252 by the Contracting Officer by reason of a material uncured breach by the Contractor; Provided,
253 That the Contracting Officer shall not seek to terminate this Contract by reason of an asserted
254 material uncured breach by the Contractor unless it has first provided at least sixty (60) days
255 written notice of the asserted breach to the Contractor and the Contractor has failed to cure such
256 breach (or to diligently commence curative actions satisfactory to the Contracting Officer for a
257 breach that cannot be fully cured within sixty (60) days) within the sixty (60)-day notice period;
258 Provided further, That this Contract may be terminated at any time by mutual consent of the
259 parties hereto.

260 (b) The Contractor has paid the Repayment Obligation, and notwithstanding
261 any Additional Capital Obligation that may later be established, the tiered pricing component and
262 the acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law,
263 shall no longer be applicable to the Contractor.

264 (c) This Contract supersedes in its entirety and is intended to replace in full
265 the Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or
266 unenforceable for any reason other than a material uncured breach of this Contract by the
267 Contractor, the Existing Contract shall not be superseded and shall be in full force and effect.

268 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

269 3. (a) During each Year, consistent with all applicable State water rights,
270 permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the
271 provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make
272 available for delivery to the Contractor from the Project 97,000 acre-feet of Class 1 Water and

273 50,000 acre-feet of Class 2 Water for irrigation and M&I purposes. The quantity of Water
274 Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for
275 pursuant to the provisions of Articles 4 and 7 of this Contract.

276 (b) The Contractor has paid the Repayment Obligation, and notwithstanding
277 any Additional Capital Obligation that may later be established, the Contractor has a permanent
278 right to the Contract Total in accordance with the 1956 Act and the terms of this Contract. This
279 right shall not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The
280 quantity of water made available for delivery in any given Year shall remain subject to the terms
281 and conditions of subdivision (a) of this Article of this Contract.

282 (c) The Contractor shall utilize the Project Water in accordance with all
283 applicable legal requirements.

284 (d) The Contractor shall make reasonable and beneficial use of all Project
285 Water or other water furnished pursuant to this Contract. Groundwater recharge programs,
286 groundwater banking programs, surface water storage programs, and other similar programs
287 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
288 Contractor's Service Area which are consistent with applicable State law and result in use
289 consistent with applicable Federal Reclamation law will be allowed; Provided, That any direct
290 recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted
291 pursuant to Article 27 of this Contract; Provided further, That such Water Conservation Plan
292 demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a

293 long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such
294 uses and in compliance with Federal Reclamation law. Groundwater recharge programs,
295 groundwater banking programs, surface water storage programs, and other similar programs
296 utilizing Project Water or other water furnished pursuant to this Contract conducted outside the
297 Contractor's Service Area may be permitted upon written approval of the Contracting Officer,
298 which approval will be based upon environmental documentation, Project Water rights, and
299 Project operational concerns. The Contracting Officer will address such concerns in regulations,
300 policies, or guidelines.

301 (e) The Contractor, through this Contract, shall comply with requirements
302 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation
303 regarding the execution of the Existing Contract undertaken pursuant to Section 7 of the
304 Endangered Species Act of 1973, as amended, as well as the requirements of any other biological
305 opinions applicable to Project Water delivery under this Contract, that are within the
306 Contractor's legal authority to implement. The Contractor shall comply with the limitations or
307 requirements imposed by environmental documentation applicable to the Contractor and within
308 its legal authority to implement regarding specific activities, including conversion of Irrigation
309 Water to M&I Water. Nothing herein shall be construed to prevent the Contractor from
310 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
311 biological opinion or other environmental documentation referred to in this Article of this
312 Contract.

313 (f) Subject to subdivisions (l) and (n) of this Article of this Contract,
314 following the declaration of Water Made Available under Article 4 of this Contract, the
315 Contracting Officer will make a determination whether Project Water, or other water available to
316 the Project, can be made available to the Contractor in addition to the Contract Total in this
317 Article of this Contract during the Year without adversely impacting the Project or other Project
318 Contractors and consistent with the Secretary's legal obligations. At the request of the
319 Contractor, the Contracting Officer will consult with the Contractor prior to making such a
320 determination. Subject to subdivisions (l) and (n) of this Article of this Contract, if the
321 Contracting Officer determines that Project Water, or other water available to the Project, can be
322 made available to the Contractor, the Contracting Officer will announce the availability of such
323 water and shall so notify the Contractor as soon as practical. The Contracting Officer will
324 thereafter meet with the Contractor and other Project Contractors capable of taking such water to
325 determine the most equitable and efficient allocation of such water. If the Contractor requests
326 the delivery of any quantity of such water, the Contracting Officer shall make such water
327 available to the Contractor in accordance with applicable statutes, regulations, guidelines, and
328 policies.

329 (g) The Contractor may request permission to reschedule for use during the
330 subsequent Year some or all of the Water Made Available to the Contractor during the current
331 Year referred to as "carryover." The Contractor may request permission to use during the
332 current Year a quantity of Project Water which may be made available by the United States to
333 the Contractor during the subsequent Year referred to as "pre-use." The Contracting Officer's

334 written approval may permit such uses in accordance with applicable statutes, regulations,
335 guidelines, and policies.

336 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
337 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract
338 shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this
339 Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to
340 impose shortages under Article 12 or subdivision (b) of Article 13 of this Contract.

341 (i) Project Water furnished to the Contractor pursuant to this Contract may be
342 delivered for purposes other than those described in subdivisions (r) and (u) of Article 1 of this
343 Contract upon written approval by the Contracting Officer in accordance with the terms and
344 conditions of such approval.

345 (j) The Contracting Officer shall make reasonable efforts to protect the water
346 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to
347 provide the water available under this Contract. The Contracting Officer shall not object to
348 participation by the Contractor, in the capacity and to the extent permitted by law, in
349 administrative proceedings related to the water rights and other rights described in the fifth (5th)
350 Explanatory Recital of this Contract; Provided however, That the Contracting Officer retains the
351 right to object to the substance of the Contractor's position in such a proceeding. Provided
352 further, that in such proceedings the Contracting Officer shall recognize the Contractor has a
353 legal right under the terms of this Contract to use Project Water.

354 (k) Project Water furnished to the Contractor during any month designated in
355 a schedule or revised schedule submitted by the Contractor and approved by the Contracting
356 Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent
357 that Class 1 Water is called for in such schedule for such month and shall be deemed to have
358 been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such
359 month. If in any month the Contractor diverts a quantity of water in addition to the total amount
360 of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised
361 schedule for such month, such additional diversions shall be charged first against the
362 Contractor's remaining Class 2 Water supply available in the current Year. To the extent the
363 Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to
364 account for such additional diversions, such additional diversions shall be charged against the
365 Contractor's remaining Class 1 Water supply available in the current Year. To the extent the
366 Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year
367 are not sufficient to account for such additional diversions, such additional diversions shall be
368 charged first against the Contractor's available Class 2 Water supply and then against the
369 Contractor's available Class 1 Water supply, both for the following Year. Payment for all
370 additional diversions of water shall be made in accordance with Article 7 of this Contract.

371 (l) If the Contracting Officer determines there is a Project Water supply
372 available at Friant Dam as the result of an unusually large water supply not otherwise storable for
373 Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such
374 water will be made available to the Contractor and others under Section 215 of the Act of

375 October 12, 1982, pursuant to the priorities specified below if the Contractor enters into a
376 temporary contract with the United States not to exceed one (1) year for the delivery of such
377 water or as otherwise provided for in Federal Reclamation law and associated regulations. Such
378 water may be identified by the Contractor either (i) as additional water to supplement the supply
379 of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon
380 written notification to the Contracting Officer, as water to be credited against the Contractor's
381 Class 2 Water supply available pursuant to this Contract. The Contracting Officer shall make
382 water determined to be available pursuant to this subsection according to the following priorities:
383 first, to contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to
384 contractors in the Cross Valley Division of the Project. The Contracting Officer will consider
385 requests from other parties for Section 215 Water for use within the area identified as the Friant
386 Division service area in the environmental assessment developed in connection with the
387 execution of the Existing Contract.

388 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
389 Contracting Officer in connection with the implementation of this Contract, is intended to
390 override, modify, supersede or otherwise interfere with any term or condition of the water rights
391 and other rights referred in the fifth (5th) Explanatory Recital of this Contract.

392 (n) The rights of the Contractor under this Contract are subject to the terms of
393 the contract for exchange waters, dated July 27, 1939, between the United States and the San
394 Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred
395 to as the Exchange Contractors), Contract No. 11r-1144, as amended. The United States agrees

396 that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River
397 unless and until required by the terms of said contract, and the United States further agrees that it
398 will not voluntarily and knowingly determine itself unable to deliver to the Exchange
399 Contractors entitled thereto from water that is available or that may become available to it from
400 the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities
401 required to satisfy the obligations of the United States under said Exchange Contract and under
402 Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract 11r-1145,
403 dated July 27, 1939).

404 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph
405 16 of the Settlement, the Contracting Officer is required to develop and implement a plan for
406 recirculation, recapture, reuse, exchange or transfer of water released for restoration flows or
407 interim flows, as those terms are defined in the Settlement, to reduce or avoid impacts to water
408 deliveries caused by said restoration flows or interim flows and water developed through such
409 activities may be made available (i) to the Contractor without the need of an additional contract,
410 and/or (ii) to others on behalf of the Contractor under terms mutually acceptable to the
411 Contractor and the Contracting Officer that are consistent with the Water Management Goal.

412 TIME FOR DELIVERY OF WATER

413 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
414 shall announce the Contracting Officer's initial declaration of the Water Made Available. The
415 declaration will be updated monthly and more frequently if necessary, based on then-current
416 operational and hydrologic conditions and a new declaration with changes, if any, to the Water

417 Made Available will be made. The Contracting Officer shall provide forecasts of Project
418 operations and the basis of the estimate, with relevant supporting information, upon the written
419 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
420 Contracting Officer shall provide the Contractor with the updated Long Term Historic Average.
421 The declaration of Project operations will be expressed in terms of both Water Made Available
422 and the Long Term Historic Average.

423 (b) On or before each March 1 and at such other times as necessary, the
424 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the
425 Contracting Officer, showing the monthly quantities of Project Water to be delivered by the
426 United States to the Contractor pursuant to this Contract for the Year commencing on such
427 March 1. The Contracting Officer shall use all reasonable means to deliver Project Water
428 according to the approved schedule for the Year commencing on such March 1.

429 (c) The Contractor shall not schedule Project Water in excess of the quantity
430 of Project Water the Contractor intends to put to reasonable and beneficial use within the
431 Contractor's Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract
432 or bank pursuant to subdivision (d) of Article 3 of this Contract during any Year.

433 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
434 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
435 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any
436 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
437 time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided,

438 That the total amount of water requested in that schedule or revision does not exceed the
439 quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of
440 Article 3 of this Contract, and the Contracting Officer determines that there will be sufficient
441 capacity available in the appropriate Friant Division Facilities to deliver the water in accordance
442 with that schedule; Provided further, That the Contractor shall not schedule the delivery of any
443 water during any period as to which the Contractor is notified by the Contracting Officer or
444 Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor
445 will not be in operation because of scheduled O&M.

446 (e) The Contractor may, during the period from and including November 1 of
447 each Year through and including the last day of February of that Year, request delivery of any
448 amount of the Class 1 Water estimated by the Contracting Officer to be made available to it
449 during the following Year. The Contractor may, during the period from and including January 1
450 of each Year (or such earlier date as may be determined by the Contracting Officer) through and
451 including the last day of February of that Year, request delivery of any amount of Class 2 Water
452 estimated by the Contracting Officer to be made available to it during the following Year. Such
453 water shall hereinafter be referred to as pre-use water. Such request must be submitted in writing
454 by the Contractor for a specified quantity of pre-use and shall be subject to the approval of the
455 Contracting Officer. Payment for pre-use water so requested shall be at the appropriate Rate(s)
456 for the following Year in accordance with Article 7 of this Contract and shall be made in
457 advance of delivery of any pre-use water. The Contracting Officer shall deliver such pre-use
458 water in accordance with a schedule or any revision thereof submitted by the Contractor and

459 approved by the Contracting Officer, to the extent such water is available and to the extent such
460 deliveries will not interfere with the delivery of Project Water entitlements to other Friant
461 Division contractors or the physical maintenance of the Project facilities. The quantities of
462 pre-use Water Delivered pursuant to this subdivision shall be deducted from the quantities of
463 water that the Contracting Officer would otherwise be obligated to make available to the
464 Contractor during the following Year; Provided, That the quantity of pre-use water to be
465 deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the
466 Contractor in the following Year shall be specified by the Contractor at the time the pre-use
467 water is requested or as revised in its first schedule for the following Year submitted in
468 accordance with subdivision (b) of this Article of this Contract, based on the availability of the
469 following Year water supplies as determined by the Contracting Officer.

470 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

471 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
472 Contract shall be delivered to the Contractor at a point or points of delivery either on Project
473 facilities or another location or locations mutually agreed to in writing by the Contracting Officer
474 and the Contractor.

475 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
476 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of
477 water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts
478 established pursuant to subdivision (a) of this Article of this Contract.

479 (c) The Contractor shall not deliver Project Water to land outside the
480 Contractor's Service Area unless approved in advance by the Contracting Officer. The
481 Contractor shall deliver Project Water in accordance with applicable Federal Reclamation law.

482 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
483 measured and recorded with equipment furnished, installed, operated, and maintained by the
484 United States, the Operating Non-Federal Entity or other appropriate entity as designated by the
485 Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery
486 established pursuant to subdivision (a) of this Article of this Contract. Upon the request of either
487 party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the
488 responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any
489 necessary steps to adjust any errors appearing therein. For any period of time when accurate
490 measurements have not been made, the Contracting Officer shall consult with the Contractor and
491 the responsible Operating Non-Federal Entity prior to making a final determination of the
492 quantity delivered for that period of time.

493 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity
494 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project
495 Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified
496 in subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United
497 States, its officers, employees, agents, and assigns on account of damage or claim of damage of
498 any nature whatsoever for which there is legal responsibility, including property damage,
499 personal injury, or death arising out of or connected with the control, carriage, handling, use,

500 disposal, or distribution of such Project Water beyond such delivery points, except for any
501 damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its
502 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity,
503 with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct
504 of the Contracting Officer or any of its officers, employees, agents, or assigns, including any
505 responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of
506 its officers, employees, agents, or assigns including any responsible Operating Non-Federal
507 Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
508 by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor
509 is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies)
510 from which the damage claim arose.

511 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

512 6. (a) The Contractor has established a measurement program satisfactory to the
513 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
514 Service Area is measured at each agricultural turnout; and water delivered for M&I purposes is
515 measured at each M&I service connection. The water measuring devices or water measuring
516 methods of comparable effectiveness must be acceptable to the Contracting Officer. The
517 Contractor shall be responsible for installing, operating, and maintaining and repairing all such
518 measuring devices and implementing all such water measuring methods at no cost to the United
519 States. The Contractor shall use the information obtained from such water measuring devices or
520 water measuring methods to ensure its proper management of the water, to bill water users for

521 water delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes
522 by customer class as defined in the Contractor's water conservation plan provided for in Article
523 27 of this Contract. Nothing herein contained, however, shall preclude the Contractor from
524 establishing and collecting any charges, assessments, or other revenues authorized by California
525 law.

526 (b) To the extent the information has not otherwise been provided, upon
527 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
528 report describing the measurement devices or water measuring methods being used or to be used
529 to implement subdivision (a) of this Article of this Contract and identifying the agricultural
530 turnouts and the M&I service connections or alternative measurement programs approved by the
531 Contracting Officer, at which such measurement devices or water measuring methods are being
532 used, and, if applicable, identifying the locations at which such devices and/or methods are not
533 yet being used including a time schedule for implementation at such locations. The Contracting
534 Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of, and
535 necessary modifications, if any, of the measuring devices or water measuring methods identified
536 in the Contractor's report and if the Contracting Officer does not respond in such time, they shall
537 be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring
538 devices or methods are inadequate, the parties shall within sixty (60) days following the
539 Contracting Officer's response, negotiate in good faith the earliest practicable date by which the
540 Contractor shall modify said measuring devices and/or measuring methods as required by the
541 Contracting Officer to ensure compliance with subdivision (a) of this Article of this Contract.

542 (c) All new surface water delivery systems installed within the Contractor's
543 Service Area after the effective date of this Contract shall also comply with the measurement
544 provisions described in subdivision (a) of this Article of this Contract.

545 (d) The Contractor shall inform the Contracting Officer and the State of
546 California in writing by April 30 of each Year of the monthly volume of surface water delivered
547 within the Contractor's Service Area during the previous Year.

548 (e) The Contractor shall inform the Contracting Officer and the Operating
549 Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity
550 of Irrigation and M&I Water taken during the preceding month.

551 RATES, METHOD OF PAYMENT FOR WATER,
552 AND ACCELERATED REPAYMENT OF FACILITIES

553 7. (a) The Contractor's cost obligations for all Delivered Water shall be
554 determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted
555 in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the
556 SJRSA, and such ratesetting policies shall be amended, modified, or superseded only through a
557 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated
558 rules and regulations, or policies; and (iii) other applicable provisions of this Contract.

559 (1) The Contractor shall pay the United States as provided for in this
560 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance
561 with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to
562 recover its estimated reimbursable costs included in the O&M component of the Rate and

563 amounts established to recover other charges and deficits, other than the construction costs. The
564 Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the
565 provisions of the SJRRSA.

566 (2) Omitted.

567 (A) Omitted.

568 (B) Project construction costs or other capitalized costs
569 attributable to capital additions to the Project incurred after the effective date of this Contract or
570 that are not reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly
571 assignable to the Contractor, shall be repaid as prescribed by the SJRRSA without interest except
572 as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue
573 on the M&I portion of unpaid Project construction costs or other capitalized cost assigned to the
574 Contractor until such costs are paid. Increases or decreases in Project construction costs or other
575 capitalized costs assigned to the Contractor caused solely by annual adjustment of Project
576 construction costs or other capitalized costs assigned to each Central Valley Project contractor by
577 the Secretary shall not be considered in determining the amounts to be paid pursuant to this
578 subdivision (a)(2)(B), but will be considered under subdivision (b) of this Article. A separate
579 repayment agreement shall be established by the Contractor and the Contracting Officer to
580 accomplish repayment of all additional Project construction costs or other capitalized costs
581 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the
582 following:

583 (1) If the collective annual Project construction costs or
584 other capitalized costs that are incurred after the effective date of this Contract and properly
585 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly
586 assignable to the Contractor shall be repaid in not more than five (5) years after notification of
587 the allocation. This amount is the result of a collective annual allocation of Project construction
588 costs to the contractors exercising contract conversions; Provided, That the reference to the
589 amount of \$5,000,000 shall not be a precedent in any other context.

590 (2) If the collective annual Project construction costs or
591 other capitalized costs that are incurred after the effective date of this Contract and properly
592 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly
593 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law.
594 This amount is the result of a collective annual allocation of Project construction costs to the
595 contractors exercising contract conversions; Provided, That the reference to the amount of
596 \$5,000,000 shall not be a precedent in any other context.

597 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
598 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
599 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any
600 reallocation of Project construction costs or other capitalized costs assigned to the Contractor
601 that may have occurred between the determination of Contractor's Existing Capital Obligation
602 and the final cost allocation. In the event that the final cost allocation, as determined by the
603 Secretary, indicates that the costs properly assignable to the Contractor, as determined by the

604 Contracting Officer, are greater than the Existing Capital Obligation and other amounts of
605 Project construction costs or other capitalized costs paid by the Contractor, then the Contractor
606 shall be obligated to pay the remaining allocated costs. The term of such additional repayment
607 contract shall be no less than one (1) year and no more than ten (10) years, however, mutually
608 agreeable provisions regarding the rate of repayment of such amount may be developed by the
609 parties. In the event that the final cost allocation, as determined by the Secretary, indicates that
610 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are less
611 than the Existing Capital Obligation and other amounts of Project construction costs or other
612 capitalized costs paid by the Contractor, then the Contracting Officer shall credit such
613 overpayment as an offset against any outstanding or future obligation of the Contractor,
614 consistent with the SJRRSA. This Contract shall be implemented in a manner consistent with
615 Section 10010(f) of the SJRRSA.

616 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall
617 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
618 period October 1, of the current Calendar Year, through September 30, of the following Calendar
619 Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2)
620 months to review and comment on such estimates. On or before September 15 of each Calendar
621 Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect
622 during the period October 1 of the current Calendar Year, through September 30 of the following
623 Calendar Year, and such notification shall revise Exhibit "B". Charges shall be subject to

624 reduction consistent with the SJRRSA based upon the average annual delivery amount agreed to
625 by the Contracting Officer and the Contractor.

626 (1) For the years 2020 through 2039 inclusive, Charges shall reflect
627 the reduction on a per acre-foot basis consistent with Section 10010(d)(1) of the SJRRSA.
628 Exhibit "D" sets forth the reduction in Charges to offset the Financing Costs as prescribed in
629 Section 10010(d)(1) of the SJRRSA; Provided, That if the Secretary determines such Charges are
630 otherwise needed, an equivalent reduction will be made to O&M costs consistent with such
631 provisions of the SJRRSA. Consistent with Section 10010(d)(1) of the SJRRSA and as shown in
632 Exhibit "D", the Friant Surcharge reduction has been calculated based upon the anticipated
633 average annual water deliveries, for the purpose of this reduction only, mutually agreed upon by
634 the Secretary and the Contractor for the period from January 1, 2020 through December 31,
635 2039. The Friant Surcharge reduction shall remain fixed and shall only be applied to Water
636 Delivered pursuant to this Contract to which the Friant Surcharge applies (including but not
637 limited to water transferred, banked, or exchanged), commencing on January 1, 2020 until such
638 volume of Water Delivered equals 1,789,000 acre-feet or December 31, 2039, whichever occurs
639 first.

640 (2) Further, to fully offset the Financing Costs, Contractor shall be
641 entitled to a reduction in other outstanding or future obligations of the Contractor in accordance
642 with Section 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding
643 or future obligations of the Contractor after October 1, 2019 has been computed by the
644 Contracting Officer, and as computed, such amount is set forth in Exhibit "D".

645 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall
646 make available to the Contractor an estimate of the Rates for Project Water for the following
647 Year and the computations and cost allocations upon which those Rates are based. The
648 Contractor shall be allowed not less than two (2) months to review and comment on such
649 computations and cost allocations. By December 31 of each Calendar Year, the Contracting
650 Officer shall provide the Contractor with the final Rates to be in effect for the upcoming Year,
651 and such notification shall revise Exhibit "B". The O&M component of the Rate may be
652 reduced as provided in the SJRRSA.

653 (e) At the time the Contractor submits the initial schedule for the delivery of
654 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
655 Contractor shall make an advance payment to the United States equal to the total amount payable
656 pursuant to the applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the
657 Project Water scheduled to be delivered pursuant to this Contract during the first two (2)
658 calendar months of the Year. Before the end of the first month and before the end of each
659 calendar month thereafter, the Contractor shall make an advance payment to the United States, at
660 the Rate(s) set under subdivision (a) of this Article of this Contract, for the Water Scheduled to
661 be delivered pursuant to this Contract during the second month immediately following.
662 Adjustments between advance payments for Water Scheduled and payments at Rates due for
663 Water Delivered shall be made before the end of the following month; Provided, That any
664 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which
665 increases the amount of Water Delivered pursuant to this Contract during any month shall be

666 accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project
667 Water is not delivered to the Contractor in advance of such payment. In any month in which the
668 quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of
669 Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered
670 to the Contractor unless and until an advance payment at the Rates then in effect for such
671 additional Project Water is made. Final adjustment between the advance payments for the Water
672 Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this
673 Contract shall be made as soon as practicable but no later than April 30th of the following Year,
674 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article
675 3 of this Contract if such water is not delivered by the last day of February.

676 (f) The Contractor shall also make a payment in addition to the Rate(s) in
677 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
678 Charges then in effect, before the end of the month following the month of delivery. The
679 payments shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as
680 shown in the water delivery report for the subject month prepared by the Contracting Officer.
681 Such water delivery report shall be the basis for payment of Charges by the Contractor, and shall
682 be provided to the Contractor by the Contracting Officer (as applicable) within five (5) days after
683 the end of the month of delivery. The water delivery report shall be deemed a bill basis for
684 payment of Charges for Water Delivered. Adjustment for overpayment or underpayment of
685 Charges shall be made through the adjustment of payments due to the United States for Charges

686 for the next month. Any amount to be paid for past due payment of Charges shall be computed
687 pursuant to Article 21 of this Contract.

688 (g) The Contractor shall pay for any Water Delivered under subdivision (d),
689 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to
690 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
691 policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this
692 Contract shall be no more than the otherwise applicable Rate for Irrigation Water or M&I Water
693 under subdivision (a) of this Article of this Contract.

694 (h) Payments to be made by the Contractor to the United States under this
695 Contract may be paid from any revenues available to the Contractor.

696 (i) All revenues received by the United States from the Contractor relating to
697 the delivery of Project Water or the delivery of non-project water through Project facilities shall
698 be allocated and applied in accordance with Federal Reclamation law and the associated rules or
699 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
700 consistent with the SJRRSA.

701 (j) The Contracting Officer shall keep its accounts, pertaining to the
702 administration of the financial terms and conditions of its long-term contracts, in accordance
703 with applicable Federal standards so as to reflect the application of Project costs and revenues.
704 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
705 Contractor a detailed accounting of all Project and Contractor expense allocations, the
706 disposition of all Project and Contractor revenues, and a summary of all water delivery

707 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
708 to resolve any discrepancies or disputes relating to accountings, reports, or information.

709 (k) The parties acknowledge and agree that the efficient administration of this
710 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
711 policies, and procedures used for establishing Rates, Charges, and/or for making and allocating
712 payments, other than those set forth in this Article of this Contract, may be in the mutual best
713 interest of the parties, it is expressly agreed that the parties may enter into agreements to modify
714 the mechanisms, policies, and procedures for any of those purposes while this Contract is in
715 effect without amending this Contract.

716 (l) (1) Omitted.

717 (2) Omitted.

718 (3) Omitted.

719 (m) Rates under the respective ratesetting policies will be established to
720 recover only reimbursable O&M (including any deficits) costs of the Project, as those terms are
721 used in the then-existing Project ratesetting policies, and consistent with the SJRRSA, and
722 interest, where appropriate, except in instances where a minimum Rate is applicable in
723 accordance with the relevant Project ratesetting policy. Changes of significance in practices
724 which implement the Contracting Officer's ratesetting policies will not be implemented until the
725 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
726 impact of the proposed change.

727 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
728 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
729 adjusted upward or downward to reflect the changed costs of delivery (if any) incurred by the
730 Contracting Officer in the delivery of the transferred Project Water to the transferee's point of
731 delivery in accordance with the then-existing Central Valley Project Ratesetting Policy.

732 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

733 8. The Contractor and the Contracting Officer concur that, as of the effective date of
734 this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and
735 therefore shall have no further liability.

736 RECOVERED WATER ACCOUNT

737 9. (a) Notwithstanding any other provisions of this Contract, water delivered to
738 the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the
739 Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of
740 \$10.00 per acre foot. Recovered Water Account water provided to the Contractor shall be
741 administered at a priority for delivery lower than Class 2 Water and higher than Section 215
742 Water.

743 (b) The manner in which the Recovered Water Account will be administered
744 will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA,
745 and Paragraph 16 of the Settlement.

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SALES, TRANSFERS, AND EXCHANGES OF WATER

10. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales, transfers, or exchanges shall be approved, where approval is required, absent compliance with appropriate environmental documentation including but not limited to the National Environmental Policy Act and the Endangered Species Act. Such environmental documentation must include, as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed Project Water sales, transfers and exchanges on both the transferor/exchanger and transferee/exchange recipient.

(b) In order to facilitate efficient water management by means of Project Water sales, transfers, or exchanges of the type historically carried out among Project Contractors located within the same geographical area and to allow the Contractor to participate in an accelerated water transfer program, the Contracting Officer has prepared, as appropriate, necessary environmental documentation including, but not limited to, the National Environmental Policy Act and the Endangered Species Act analyzing annual Project Water sales, transfers, or exchanges among Contractors within the same geographical area and the

766 Contracting Officer has determined that such Project Water sales, transfers, and exchanges
767 comply with applicable law.

768 (c) Project Water sales, transfers, and exchanges analyzed in the
769 environmental documentation referenced in subdivision (b) of this Article of this Contract, shall
770 be conducted with advance notice to the Contracting Officer and the Contracting Officer's
771 written acknowledgement of the transaction, but shall not require prior written approval by the
772 Contracting Officer.

773 (d) For Project Water sales, transfers, or exchanges to qualify under
774 subdivision (b) of this Article of this Contract such Project Water sale, transfer, or exchange
775 must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for
776 M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface
777 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
778 established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur within a single
779 Year; (iii) occur between a willing seller and a willing buyer or willing exchangers; (iv) convey
780 water through existing facilities with no new construction or modifications to facilities and be
781 between existing Project Contractors and/or the Contractor and the United States, Department of
782 the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and
783 requirements imposed for protection of the environment and Indian Trust Assets, as defined
784 under Federal law.

785 (e) The environmental documentation and the Contracting Officer's
786 compliance determination for transactions described in subdivision (b) of this Article of this

787 Contract shall be reviewed every five (5) years and updated, as necessary, prior to the expiration
788 of the then-existing five (5) year period. All subsequent environmental documentation shall
789 include an alternative to evaluate not less than the quantity of Project Water historically sold,
790 transferred, or exchanged within the same geographical area.

791 (f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement
792 providing for sale, transfer, or exchange of Project Water that is not used for interim flows or
793 restoration flows pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy
794 the requirements of CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or
795 exchanges comply with sub-division (f)(1) and (f)(2) below.

796 (1) Project Water sales, transfers, and exchanges conducted under the
797 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting
798 Officer's concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the
799 Contractor shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1)
800 year, provide ninety (90) days written advance notification to the Contracting Officer and
801 similarly thirty (30) days written advance notification of any Project Water sale, transfer, or
802 exchange with a term of less than one (1) year. The Contracting Officer shall promptly make
803 such notice publicly available.

804 (2) The Contractor's thirty (30) days or ninety (90) days advance
805 written notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain
806 how the proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or
807 mitigate impacts to Project Water deliveries caused by interim or restoration flows or is

808 otherwise intended to facilitate the Water Management Goal as described in the SJRRSA. The
809 Contracting Officer shall promptly make such notice publicly available.

810 (3) In addition, the Contracting Officer shall, at least annually, make
811 available publicly a compilation of the number of Project Water sales, transfers, and exchange
812 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
813 Contract.

814 (4) Project Water sold, transferred, or exchanged under an agreement
815 that meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be
816 counted as a replacement or an offset for purposes of determining reductions to Project Water
817 deliveries to any Friant Division Project Contractor except as provided in Paragraph 16(b) of the
818 Settlement.

819 (g) Notwithstanding any Additional Capital Obligation that may later be
820 established, in the case of a sale or transfer of Irrigation Water to another contractor which is
821 otherwise subject to the acreage limitations, reporting, and Full Cost pricing provisions of the
822 Reclamation Reform Act of 1982, as amended, hereinafter referred to as the RRA, such sold or
823 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of
824 a sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to
825 RRA provisions, such RRA provisions shall apply to delivery of such water.

826 APPLICATION OF PAYMENTS AND ADJUSTMENTS

827 11. (a) The amount of any overpayment by the Contractor of the Contractor's
828 O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current

829 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
830 more than One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu
831 of a refund, any amount of such overpayment, at the option of the Contractor, may be credited
832 against amounts to become due to the United States by the Contractor. With respect to
833 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or
834 anyone having or claiming to have the right to the use of any of the Project Water supply
835 provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
836 days of the Contracting Officer obtaining direction as to how to credit or refund such
837 overpayment in response to the notice to the Contractor that it has finalized the accounts for the
838 Year in which the overpayment was made.

839 (b) All advances for miscellaneous costs incurred for work requested by the
840 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs
841 when the work has been completed. If the advances exceed the actual costs incurred, the
842 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
843 advances, the Contractor will be billed for the additional costs pursuant to Article 26 of this
844 Contract.

845 TEMPORARY REDUCTIONS—RETURN FLOWS

846 12. (a) The Contracting Officer shall make all reasonable efforts to optimize
847 delivery of the Contract Total subject to: (i) the authorized purposes and priorities of the Project;
848 (ii) the requirements of Federal law and the Settlement; and (iii) the obligations of the United

849 States under existing contracts, or renewals thereof, providing for water deliveries from the
850 Project.

851 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
852 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for
853 the purposes of investigation, inspection, maintenance, repair, or replacement of any of the
854 Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor,
855 but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the
856 Contractor due notice in advance of such temporary discontinuance or reduction, except in case
857 of emergency, in which case no notice need be given; Provided, That the United States shall use
858 its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of
859 service after such reduction or discontinuance, and if requested by the Contractor, the United
860 States will, if possible, deliver the quantity of Project Water which would have been delivered
861 hereunder in the absence of such discontinuance or reduction.

862 (c) The United States reserves the right to all seepage and return flow water
863 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
864 beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for
865 the United States any right as seepage or return flow to water being used pursuant to this
866 Contract for surface irrigation or underground storage either being put to reasonable and
867 beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or
868 those claiming by, through, or under the Contractor. For purposes of this subdivision,

869 groundwater recharge, groundwater banking and all similar groundwater activities will be
870 deemed to be underground storage.

871 CONSTRAINTS ON THE AVAILABILITY OF WATER

872 13. (a) In its operation of the Project, the Contracting Officer will use all
873 reasonable means to guard against a Condition of Shortage in the quantity of water to be made
874 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
875 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
876 Contractor of said determination as soon as practicable.

877 (b) If there is a Condition of Shortage because of errors in physical operations
878 of the Project, drought, other physical causes beyond the control of the Contracting Officer or
879 actions taken by the Contracting Officer to meet legal obligations, including but not limited to
880 obligations pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of
881 this Contract, no liability shall accrue against the United States or any of its officers, agents, or
882 employees for any damage, direct or indirect, arising therefrom.

883 (c) The United States shall not execute contracts which together with this
884 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000
885 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That,
886 subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water
887 contracts shall not prohibit the United States from entering into temporary contracts of one year
888 or less in duration for delivery of Project Water to other entities if such water is not necessary to
889 meet the schedules as may be submitted by all Friant Division Project Contractors entitled to

890 receive Class 1 Water and/or Class 2 Water under their contracts. Nothing in this subdivision
891 shall limit the Contracting Officer's ability to take actions that result in the availability of new
892 water supplies to be used for Project purposes and allocating such new supplies; Provided, That
893 the Contracting Officer shall not take such actions until after consultation with the Friant
894 Division Project Contractors.

895 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to
896 this or any other contract heretofore or hereafter entered into any Year unless and until the
897 Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in
898 subdivision (c) of this Article of this Contract will be available for delivery in said Year. If the
899 Contracting Officer determines there is or will be a shortage in any Year in the quantity of
900 Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1
901 Water among all Contractors entitled to receive such water that will be made available at Friant
902 Dam in accordance with the following:

903 (1) A determination shall be made of the total quantity of Class 1
904 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the
905 amount so determined being herein referred to as the available supply.

906 (2) The total available Class 1 supply shall be divided by the Class 1
907 Water contractual commitments, the quotient thus obtained being herein referred to as the
908 Class 1 apportionment coefficient.

909 (3) The total quantity of Class 1 Water under Article 3 of this Contract
910 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of

911 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the
912 respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water
913 specified in subdivision (a) of Article 3 of this Contract.

914 (e) If the Contracting Officer determines there is less than the quantity of
915 Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3
916 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the
917 Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of
918 subdivision (d) of this Article of this Contract substituting the term "Class 2" for the term "Class
919 1."

920 (f) In the event that in any Year there is made available to the Contractor, by
921 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article
922 of this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of
923 Article 12 of this Contract, less than the quantity of water which the Contractor otherwise would
924 be entitled to receive hereunder, there shall be made an adjustment on account of the amounts
925 already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water
926 for said Year in accordance with Article 11 of this Contract.

927 UNAVOIDABLE GROUNDWATER PERCOLATION

928 14. Omitted.

929 ACREAGE LIMITATION

930 15. (a) The Contractor has paid the Repayment Obligation, and notwithstanding
931 any Additional Capital Obligation that may later be established, the provisions of section 213(a)

932 and (b) of the RRA shall apply to lands in the Contractor's Service Area, with the effect that
933 acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer apply
934 to lands in the Contractor's Service Area with respect to Water Delivered pursuant to this
935 Contract. Reclamation will conduct a final water district review for the purpose of determining
936 compliance with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA
937 from the date of the last water district review until the date when payment to Reclamation of the
938 Repayment Obligation was completed.

939 (b) Project Water to which the Contractor is entitled through a separate
940 contract, other than this Contract, that is subject to Federal Reclamation law, may be delivered to
941 lands within the Contractor's Service Area. Notwithstanding any Additional Capital Obligation
942 that may later be established, Project Water Delivered under this Contract may be mixed with
943 Project Water Delivered pursuant to a contract with the United States, other than this Contract, to
944 which acreage limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation
945 law apply without causing the application of the acreage limitations, reporting, and the Full Cost
946 pricing provisions of Federal Reclamation law to the Water Delivered pursuant to this Contract;
947 Provided, The terms and conditions in such other contract shall continue to apply, and if such
948 terms and conditions so require, the lands to receive Project Water under such other contract
949 shall be properly designated by the Contractor and such Project Water is to be delivered in
950 accordance with the RRA including any applicable acreage limitations, reporting, and Full Cost
951 pricing provisions.

952

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

953 16. (a) The parties agree that the delivery of water or the use of Federal facilities
954 pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented,
955 and the rules and regulations promulgated by the Secretary of the Interior under Federal
956 Reclamation law.

957 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.

958 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of
959 the Settlement and the SJRRSA.

960

PROTECTION OF WATER AND AIR QUALITY

961 17. (a) Project facilities used to make available and deliver water to the
962 Contractor shall be operated and maintained in the most practical manner to maintain the quality
963 of the water at the highest level possible as determined by the Contracting Officer: *Provided,*
964 *That* the United States does not warrant the quality of the water delivered to the Contractor and is
965 under no obligation to furnish or construct water treatment facilities to maintain or improve the
966 quality of water delivered to the Contractor.

967 (b) The Contractor shall comply with all applicable water and air pollution
968 laws and regulations of the United States and the State of California; and shall obtain all required
969 permits or licenses from the appropriate Federal, State, or local authorities necessary for the
970 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,
971 State, and local water quality standards applicable to surface and subsurface drainage and/or
972 discharges generated through the use of Federal or Contractor facilities or project water provided
973 by the Contractor within the Contractor's Project Water Service Area.

974 (c) This article shall not affect or alter any legal obligations of the Secretary
975 to provide drainage or other discharge services.

976

WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

977

978 18. (a) Omitted.

979 (b) Notwithstanding any Additional Capital Obligation that may later be
980 established, water or water rights now owned or hereafter acquired by the Contractor other than

981 from the United States pursuant to this Contract and Irrigation Water furnished pursuant to the
982 terms of this Contract may be simultaneously transported through the same distribution facilities
983 of the Contractor without the payment of fees to the United States and without application of
984 Federal Reclamation law to Water Delivered pursuant to this Contract or to lands which receive
985 Water Delivered to Contractor pursuant to this Contract.

986 (c) Water or water rights now owned or hereafter acquired by the Contractor,
987 other than from the United States or adverse to the Project or its contractors (i.e., non-project
988 water), may be stored, conveyed and/or diverted through Project facilities, other than Friant
989 Division Facilities, subject to the completion of appropriate environmental documentation, with
990 the approval of the Contracting Officer and the execution of any contract determined by the
991 Contracting Officer to be necessary, consistent with the following provisions:

992 (1) The Contractor may introduce non-project water into Project
993 facilities and deliver said water to lands within the Contractor's Service Area subject to payment
994 to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate
995 as determined by the Contracting Officer. In addition, if electrical power is required to pump
996 non-project water, the Contractor shall be responsible for obtaining the necessary power and
997 paying the necessary charges therefor.

998 (2) Delivery of such non-project water in and through Project facilities
999 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
1000 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
1001 available to other Project Contractors; (iii) interfere with the delivery of contractual water

1002 entitlements to any other Project Contractors; (iv) interfere with the physical maintenance of the
1003 Project facilities; or (v) result in the United States incurring any liability or unreimbursed costs
1004 or expenses thereby.

1005 (3) Neither the United States nor the Operating Non-Federal Entity
1006 shall be responsible for control, care or distribution of the non-project water before it is
1007 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
1008 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and
1009 their respective officers, agents, and employees, from any claim for damage to persons or
1010 property, direct or indirect, resulting from Contractor's diversion or extraction of non-project
1011 water from any source.

1012 (4) Diversion of such non-project water into Project facilities shall be
1013 consistent with all applicable laws, and if involving groundwater, consistent with any
1014 groundwater management plan for the area from which it was extracted.

1015 (5) After Project purposes are met, as determined by the Contracting
1016 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
1017 of the facilities declared to be available by the Contracting Officer for conveyance and
1018 transportation of non-project water prior to any such remaining capacity being made available to
1019 non-project contractors.

1020 (d) Non-project water may be stored, conveyed and/or diverted through Friant
1021 Division Facilities, subject to the prior completion of appropriate environmental documentation
1022 and approval of the Contracting Officer without execution of a separate contract, consistent with

1023 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be
1024 appropriate by the Contracting Officer.

1025 OPINIONS AND DETERMINATIONS

1026 19. (a) Where the terms of this Contract provide for actions to be based upon the
1027 opinion or determination of either party to this Contract, said terms shall not be construed as
1028 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
1029 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
1030 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
1031 or unreasonable opinion or determination. Each opinion or determination by either party shall be
1032 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect
1033 or alter the standard of judicial review applicable under Federal law to any opinion or
1034 determination implementing a specific provision of Federal law embodied in statute or
1035 regulation.

1036 (b) The Contracting Officer shall have the right to make determinations
1037 necessary to administer this Contract that are consistent with the provisions of this Contract, the
1038 laws of the United States and the State of California, and the rules and regulations promulgated
1039 by the Secretary. Such determinations shall be made in consultation with the Contractor to the
1040 extent reasonably practicable.

1041 COORDINATION AND COOPERATION

1042 20. (a) In order to further their mutual goals and objectives, the Contracting
1043 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and

1044 with other affected Project Contractors, in order to improve the operation and management of the
1045 Project. The communication, coordination, and cooperation regarding operations and
1046 management shall include, but not limited to, any action which will or may materially affect the
1047 quantity or quality of Project Water supply, the allocation of Project Water supply, and Project
1048 financial matters including, but not limited to, budget issues. The communication, coordination,
1049 and cooperation provided for hereunder shall extend to all provisions of this Contract. Each
1050 party shall retain exclusive decision making authority for all actions, opinions, and
1051 determinations to be made by the respective party.

1052 (b) It is the intent of the Secretary to improve water supply reliability. To
1053 carry out this intent:

1054 (1) The Contracting Officer will, at the request of the Contractor,
1055 assist in the development of integrated resource management plans for the Contractor. Further,
1056 the Contracting Officer will, as appropriate, seek authorizations for implementation of
1057 partnerships to improve water supply, water quality, and reliability.

1058 (2) The Secretary will, as appropriate, pursue program and project
1059 implementation and authorization in coordination with Project Contractors to improve the water
1060 supply, water quality, and reliability of the Project for all Project purposes.

1061 (3) The Secretary will coordinate with Project Contractors and the
1062 State of California to seek improved water resource management.

1063 (4) The Secretary will coordinate actions of agencies within the
1064 Department of the Interior that may impact the availability of water for Project purposes.

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EQUAL EMPLOYMENT OPPORTUNITY

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22. During the performance of this Contract, the Contractor agrees as follows:

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(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

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(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

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(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

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(e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in

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1126 Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and
1127 remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule,
1128 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1129 (g) The Contractor will include the provisions of paragraphs (1) through (7) in
1130 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1131 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,
1132 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1133 will take such action with respect to any subcontract or purchase order as may be directed by the
1134 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1135 noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is
1136 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1137 Contractor may request the United States to enter into such litigation to protect the interests of
1138 the United States.

1139 GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

1140 23. (a) The obligation of the Contractor to pay the United States as provided in
1141 this Contract is a general obligation of the Contractor notwithstanding the manner in which the
1142 obligation may be distributed among the Contractor's water users and notwithstanding the
1143 default of individual water users in their obligations to the Contractor.

1144 (b) The payment of charges becoming due hereunder is a condition precedent
1145 to receiving benefits under this Contract. The United States shall not make water available to the
1146 Contractor through Project facilities during any period in which the Contractor may be in arrears
1147 in the advance payment of water rates due the United States. The Contractor shall not furnish
1148 water made available pursuant to this Contract for lands or parties which are in arrears in the
1149 advance payment of water rates levied or established by the Contractor.

1150 (c) With respect to subdivision (b) of this Article of this Contract, the
1151 Contractor shall have no obligation to require advance payment for water rates which it levies.

1152 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1153 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1154 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
1155 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
1156 laws, as well as with their respective implementing regulations and guidelines imposed by the
1157 U.S. Department of the Interior and/or Bureau of Reclamation.

1158 (b) These statutes require that no person in the United States shall, on the
1159 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1160 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1161 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1162 Contractor agrees to immediately take any measures necessary to implement this obligation,
1163 including permitting officials of the United States to inspect premises, programs, and documents.

1164 (c) The Contractor makes this agreement in consideration of and for the
1165 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1166 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1167 Reclamation, including installment payments after such date on account of arrangements for
1168 Federal financial assistance which were approved before such date. The Contractor recognizes
1169 and agrees that such Federal assistance will be extended in reliance on the representations and
1170 agreements made in this Article, and that the United States reserves the right to seek judicial
1171 enforcement thereof.

1172 PRIVACY ACT COMPLIANCE

1173 25. Omitted.

1174 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1175 26. In addition to all other payments to be made by the Contractor pursuant to this
1176 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a
1177 bill and detailed statement submitted by the Contracting Officer to the Contractor for such
1178 specific items of direct cost incurred by the United States for work requested by the Contractor
1179 associated with this Contract plus indirect costs in accordance with applicable Bureau of
1180 Reclamation policies and procedures. All such amounts referred to in this Article of this
1181 Contract shall not exceed the amount agreed to in writing in advance by the Contractor. This
1182 Article of this Contract shall not apply to costs for routine contract administration.

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WATER CONSERVATION

1184 27. (a) Prior to the delivery of water provided from or conveyed through
1185 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
1186 shall be implementing an effective water conservation and efficiency program based on the
1187 Contractor's water conservation plan that has been determined by the Contracting Officer to
1188 meet the conservation and efficiency criteria for evaluating water conservation plans established
1189 under Federal law. The water conservation and efficiency program shall contain definite water
1190 conservation objectives, appropriate economically feasible water conservation measures, and
1191 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1192 Contract shall be contingent upon the Contractor's continued implementation of such water
1193 conservation program. In the event the Contractor's water conservation plan or any revised
1194 water conservation plan completed pursuant to subdivision (d) of this Article of this Contract
1195 have not yet been determined by the Contracting Officer to meet such criteria, due to
1196 circumstances which the Contracting Officer determines are beyond the control of the
1197 Contractor, water deliveries shall be made under this Contract so long as the Contractor
1198 diligently works with the Contracting Officer to obtain such determination at the earliest
1199 practicable date, and thereafter the Contractor immediately begins implementing its water
1200 conservation and efficiency program in accordance with the time schedules therein.

1201 (b) Should the amount of M&I Water Delivered pursuant to subdivision (a) of
1202 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the
1203 Contractor shall implement the Best Management Practices identified by the time frames issued

1204 by the California Urban Water Conservation Council for such M&I Water unless any such
1205 practice is determined by the Contracting Officer to be inappropriate for the Contractor.

1206 (c) The Contractor shall submit to the Contracting Officer a report on the
1207 status of its implementation of the water conservation plan on the reporting dates specified in the
1208 then-existing conservation and efficiency criteria established under Federal law.

1209 (d) At five (5) -year intervals, the Contractor shall revise its water
1210 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1211 water conservation plans established under Federal law and submit such revised water
1212 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1213 will then determine if the water conservation plan meets Reclamation's then-existing
1214 conservation and efficiency criteria for evaluating water conservation plans established under
1215 Federal law.

1216 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1217 shall be described in the Contractor's water conservation plan.

1218 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1219 28. Except as specifically provided in Article 18 of this Contract, the provisions of
1220 this Contract shall not be applicable to or affect non-project water or water rights now owned or
1221 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1222 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1223 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or

1224 any water user within the Contractor's Service Area acquires or has available under any other
1225 contract pursuant to Federal Reclamation law.

1226 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1227 29. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1228 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1229 Operating Non-Federal Entity by separate agreement between the United States and the
1230 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the
1231 rights or obligations of the Contractor or the United States hereunder.

1232 (b) The Contracting Officer has previously notified the Contractor in writing
1233 that the O&M of a portion of the Project facilities which serve the Contractor has been
1234 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1235 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer
1236 under the terms and conditions of the separate agreement between the United States and the
1237 Operating Non-Federal Entity described in subdivision (a) of this Article of this Contract, all
1238 rates, charges or assessments of any kind, including any assessment for reserve funds, which the
1239 Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the O&M
1240 of the portion of the Project facilities operated and maintained by the Operating Non-Federal
1241 Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and
1242 replacement costs for physical works and appurtenances associated with the Tracy Pumping
1243 Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the
1244 O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance

1245 and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity
1246 or such successor shall not relieve the Contractor of its obligation to pay directly to the United
1247 States the Contractor's share of the Project Rates and Charges, except to the extent the Operating
1248 Non-Federal Entity collects payments on behalf of the United States in accordance with the
1249 separate agreement identified in subdivision (a) of this Article of this Contract.

1250 (c) For so long as the O&M of any portion of the Project facilities serving the
1251 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1252 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1253 Contract representing the cost associated with the activity being performed by the Operating
1254 Non-Federal Entity or its successor.

1255 (d) In the event the O&M of the Project facilities operated and maintained by
1256 the Operating Non-Federal Entity is re-assumed by the United States during the term of this
1257 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the
1258 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1259 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1260 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
1261 absence of written notification from the Contracting Officer to the contrary, pay the Rates and
1262 Charges specified in the revised Exhibit "B" directly to the United States in compliance with
1263 Article 7 of this Contract.

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CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1265 30. The expenditure or advance of any money or the performance of any obligation of
1266 the United States under this Contract shall be contingent upon appropriation or allotment of
1267 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1268 obligations under this Contract. No liability shall accrue to the United States in case funds are
1269 not appropriated or allotted.

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BOOKS, RECORDS, AND REPORTS

1271 31. (a) The Contractor shall establish and maintain accounts and other books and
1272 records pertaining to administration of the terms and conditions of this Contract, including: the
1273 Contractor's financial transactions, water supply data, and Project land and right-of-way
1274 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1275 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1276 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1277 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1278 Contract shall have the right during office hours to examine and make copies of the other party's
1279 books and records relating to matters covered by this Contract.

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(b) Notwithstanding the provisions of subdivision (a) of this Article of this

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Contract, no books, records, or other information shall be requested from the Contractor by the

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Contracting Officer unless such books, records, or information are reasonably related to the

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administration or performance of this Contract. Any such request shall allow the Contractor a

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reasonable period of time within which to provide the requested books, records, or information.

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(c) At such time as the Contractor provides information to the Contracting

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Officer pursuant to subdivision (a) of this Article of this Contract, a copy of such information

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shall be provided to the Operating Non-Federal Entity.

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ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

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32. (a) The provisions of this Contract shall apply to and bind the successors and
1290 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1291 therein shall be valid until approved in writing by the Contracting Officer.

1312 provisions of this Contract which were not found to be legally invalid or unenforceable in the
1313 final court decision.

1314 RESOLUTION OF DISPUTES

1315 34. Should any dispute arise concerning any provisions of this Contract, or the
1316 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1317 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1318 Officer referring any matter to Department of Justice, the party shall provide to the other party
1319 thirty (30) days written notice of the intent to take such action; Provided, That such notice shall
1320 not be required where a delay in commencing an action would prejudice the interests of the party
1321 that intends to file suit. During the thirty (30) day notice period, the Contractor and the
1322 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
1323 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the
1324 Contractor or the United States may have.

1325 OFFICIALS NOT TO BENEFIT

1326 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1327 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1328 manner as other water users or landowners.

1329 CHANGES IN CONTRACTOR'S SERVICE AREA

1330 36. (a) While this Contract is in effect, no change may be made in the
1331 Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution,
1332 consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

1333 (b) Within thirty (30) days of receipt of a request for such a change, the
1334 Contracting Officer will notify the Contractor of any additional information required by the

1335 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1336 agreeable schedule for timely completion of the process. Such process will analyze whether the
1337 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1338 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1339 Contract or to pay for any Federally-constructed facilities for which the Contractor is
1340 responsible; and (iii) have an impact on any Project Water rights applications, permits, or
1341 licenses. In addition, the Contracting Officer shall comply with the National Environmental
1342 Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs
1343 incurred by the Contracting Officer in this process, and such costs will be paid in accordance
1344 with Article 26 of this Contract.

1345 FEDERAL LAWS

1346 37. By entering into this Contract, the Contractor does not waive its rights to contest
1347 the validity or application in connection with the performance of the terms and conditions of this
1348 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1349 the terms and conditions of this Contract unless and until relief from application of such Federal
1350 law or regulation to the implementing provision of the Contract is granted by a court of
1351 competent jurisdiction.

1352 EMERGENCY RESERVE FUND

1353 38. The Contractor and Contracting Officer acknowledge that the requirements to
1354 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1355 Friant Division Facilities is and will continue to be administered under Contract No.

1356 8-07-20-X0356 titled Agreement To Transfer The Operation, Maintenance And Replacement
1357 And Certain Financial And Administrative Activities Related To The Friant-Kern Canal And
1358 Associated Works, dated March 1, 1998 as amended, supplemented, assigned, or renewed.

1359 MEDIUM FOR TRANSMITTING PAYMENT

1360 39. (a) All payments from the Contractor to the United States under this contract
1361 shall be by the medium requested by the United States on or before the date payment is due. The
1362 required method of payment may include checks, wire transfers, or other types of payment
1363 specified by the United States.

1364 (b) Upon execution of the contract, the Contractor shall furnish the
1365 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose
1366 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1367 out of the Contractor's relationship with the United States.

1368 NOTICES

1369 40. Any notice, demand, or request authorized or required by this Contract shall be
1370 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1371 delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno,
1372 California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered
1373 to the Board of Directors of Southern San Joaquin Municipal Utility District, P.O. Box 279,
1374 Delano, California 93215. The designation of the addressee or the address may be changed by
1375 notice given in the same manner as provided in this Article of this Contract for other notices.

1376 CONFIRMATION OF CONTRACT

1377 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1378 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1379 confirming the execution of this Contract. The Contractor shall furnish the United States a
1380 certified copy of the final decree, the validation proceedings, and all pertinent supporting records
1381 of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful,
1382 valid, and binding on the Contractor.

1383 CONTRACT DRAFTING CONSIDERATIONS

1384 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1385 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1386 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and

1387 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the
1388 parties hereto, each of whom is sophisticated in the matters to which this Contract pertains, and
1389 no one party shall be considered to have drafted the stated Articles.

1390 **IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day**
1391 **and year first above written.**